

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. 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 call*⁴ 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.
5. Recommends a method to explicitly inform employees of the consequences of violating the District’s policy.
 6. 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; Conduct; and Conflict of Interest*; and administrative procedure 5:120-AP2, *Employee Conduct Standards*.

Pandemic Planning Team

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

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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 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.

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 Sexual Harassment 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 Committee ⁷

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

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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, added by P.A. 101-591. By 9-1-22, 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

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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, added by P.A. 101-591.

least once in the course of the three school years after receipt of the rating, and (b) implement 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).

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¹⁴ 105 ILCS 5/22-80(d).

¹⁵ Establishing a wellness committee is optional. 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” See also f/n 26 in policy 6:50, *School Wellness*. If a district establishes a wellness committee, it should be listed here.

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 the 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.

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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 policy 5:90, *Abused and Neglected Child Reporting*, and 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/, amended by P.A. 101-516, 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 policy 7:345, *Use of Educational Technologies; Student Data Privacy and Security*, and 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*.

²⁰ 105 ILCS 5/10-20.74, added by P.A. 101-654. 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, added by P.A. 101-643, 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 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 supports 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.

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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 A *school-specific plan* is required by 105 ILCS 5/2-3.130(e), 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*. ISBE's initial notice of rulemaking used the statutory term *school-specific plan* but its final rules use the term *school district plan*. Compare 45 Ill. Reg. 12274 with 46 Ill. Reg. 6313.

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. *Id.* at (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

Public Participation at School Board Meetings and Petitions to the Board 1

During each regular and special open meeting of the Board, any person may comment to or ask questions of the School Board (*public participation*), subject to the reasonable constraints established and recorded in this policy's guidelines below.² The Board listens to comments or questions during

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¹ The Open Meetings Act (OMA) requires public bodies to have rules (a policy) on public participation. Public comment is synonymous with public participation. They are used interchangeably in the footnotes below. 5 ILCS 120/. Customize this policy to ensure it is responsive to the community's public participation needs.

OMA and the School Code grant any person the right to address a school board during any open meeting. See 5 ILCS 120/2.06, 105 ILCS 5/10-6 (board of directors), 5/10-16 (board of education), and PAO 19-2. See f/ns 2, 4, and 5 below for more detailed discussions.

Policy 2:110, *Qualifications, Term, and Duties of Board Officers*, governs the board president's duties, one of which is to preside at all meetings, including presiding over public participation and enforcing this policy. Enforcing this policy is key to the board conducting a successful meeting. The board president should speak with the board attorney to: (1) craft opening statements for the public participation portion of the meeting related to enforcement of this policy and consequences for violating it or any other related board policies, and (2) discuss whether the presence of security and/or law enforcement is advisable, especially when public participation is expected to be long or contentious. For a resource on best practices for managing challenging public comment periods, including a sample opening statement, see: www.iasb.com/policy-services-and-school-law/guidance-and-resources/managing-challenging-public-comment-periods/ and other learning opportunities through IASB's Online Learning Center, at: www.iasb.com/conference-training-and-events/training/online-learning/online-courses/.

While it does not apply directly to school boards, the Empowering Public Participation Act, 5 ILCS 850/, added by P.A. 102-348, prohibits law enforcement agencies or officers employed by them from intentionally conducting background checks of individuals based solely on the fact that they are speaking at an open meeting of a public body. Consult the board attorney for a discussion related to the appropriateness of board members and school officials using search engines and/or other social media platforms to search for information about individuals speaking during public participation.

² This sentence combines 105 ILCS 5/10-16 and 5 ILCS 120/2.06(g). Prohibiting public comment and/or restricting public comment to written filings violates the mandates and overarching purpose of OMA. *Roxana CUSD No. 1 v. EPA*, 998 N.E.2d 961 (Ill.App.4 2013).

While some courts have upheld public bodies limiting public comment to certain subjects, such as only subjects on the agenda or only related to the business of the public body, this sample policy does not provide default sample text for limiting public comment to certain subjects. This is because 105 ILCS 5/10-16 requires school boards to allow members of the public "to comment to or ask questions of the board." The cases in which courts upheld limiting public comment to certain subjects involved public bodies with no governing statutes that required the public body to allow the public "to comment to or ask questions of the board."

Consult with the board attorney for guidance before adopting a maximum time limit for public participation; public comment rules are frequently challenged. The Ill. Public Access Counselor (PAC) has issued only unpublished, non-binding opinions approving of 30- and 60-minute overall time limits for public comment under OMA. The PAC has issued a binding opinion finding that a public body violated OMA when, pursuant to an unrecorded rule, it limited public comment on a controversial topic to 15 minutes. Public Access Opinion (PAO) 19-2. The PAC noted that while the lack of an adopted policy on the time period for public comment did not "necessarily mean that public comment must be allowed to continue indefinitely," the public body presented "no evidence that limiting comments was necessary to maintain decorum or that extending the comment period would have unduly interfered with the orderly transaction of public business." *Id.* If the board wants to establish a maximum time limit for public participation, it may revise the first sentence of the paragraph as follows:

For a maximum of 60 minutes During each regular and special open meeting of the Board, any person may comment to or ask questions of the School Board (*public participation*), subject to the reasonable constraints established and recorded in this policy's guidelines below. The time limit for public participation at a meeting may be extended upon the majority vote of the Board members at the regular or special meeting.

If a board wants to establish a time limit other than 60 minutes, substitute with the time limit desired. Note that any extension of a public comment period cannot be based on the viewpoint of a speaker(s).

public participation; responses to comments to or questions of the Board are most often managed through policy 3:30, *Chain of Command*.³

To preserve sufficient time for the Board to conduct its business, any person appearing before the Board is expected to follow these guidelines:⁴

1. Address the Board only at the appropriate time as indicated on the agenda and when recognized by the Board President. This includes following the directives of the Board President to maintain order and decorum for all.
2. Use a sign-in sheet, if requested.⁵
3. Identify oneself and be brief. Ordinarily, the time for any one person to address the Board during public participation shall be limited to five minutes.⁶ In unusual circumstances, and

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³ The law does not require board members to respond during public participation, and best practices for meetings instruct board members to refrain from engaging in commentary with members of the public during public participation.

⁴ OMA does not but PAO 19-2 does provide specific rules. These guidelines may be amended. The guidelines for public comment and the time limits (if any) should be reviewed with the board attorney. Restrictions on public comment during board meetings must respect free speech rights guaranteed by the First Amendment. Do not use viewpoint-based restrictions on public comment time unless approved by the board attorney. Many decisions address the tension between free speech and rules for public comment during meetings. See, for example:

Mnyofu v. Rich Twp. High Sch. Dist., 2007 WL 1308523 (N.D.Ill. 2007)(school boards may impose guidelines for running meetings to maintain effectiveness).

PAO 19-2 (the PAC ordered a board to refrain from applying unestablished and unrecorded rules to restrict public comment at future meetings stating, “Though a public body has inherent authority to conduct its meetings in an efficient manner and need not allow public comment to continue indefinitely, there was no evidence that capping public comment to 15 minutes was necessary to maintain decorum or that extending the comment period would have unduly interfered with the orderly transaction of public business.”).

PAO 21-9 (The PAC found a board violated OMA when it required public comments about retention of a coach to be made in closed, rather than open, session).

Lowery v. Jefferson Co. Bd of Educ., 586 F.3d 427 (6th Cir. 2009)(upheld a rule prohibiting speakers from being frivolous, repetitive, or harassing).

Steinburg v. Chesterfield Cnty. Planning Comm’n, 527 F.3d 377 (4th Cir. 2008), *cert. denied* (upheld removal of a man from a public meeting for behaving in a hostile manner).

Norse v. City of Santa Cruz, 629 F.3d 966 (9th Cir. 2010)(remanded a decision upholding community member’s removal from city council meeting after community member gave a Nazi salute in presiding officer’s direction, which is considered as classic viewpoint discrimination for which city council members were not entitled to qualified immunity).

Fairchild v. Liberty Indep. Sch. Dist., 597 F.3d 747 (5th Cir. 2010)(upheld a policy banning discussion of personnel matters during public comment; the rationale turned, at least in part, on the Texas open meetings law).

Bach v. Sch. Bd. of the City of Virginia Beach, 139 F.Supp.2d 738 (E.D.Va. 2001)(struck down a rule that prohibited personal attacks during public comments at meetings).

Ison v. Madison Local Sch. Dist. Bd. of Educ., 3 F.4th 887 (6th Cir. 2021)(found a policy prohibiting statements that were personally directed, abusive, or antagonistic constituted viewpoint discrimination in violation of the First Amendment).

⁵ Optional. A public commenter cannot be excluded for refusing to provide his or her home address. PAO 14-9. Generally, a board should consult with its attorney regarding the practice of excluding public commenters for reasons relating to the sign-in sheet.

when an individual has made a request to speak for a longer period of time, the Board President may allow a person to speak for more than five minutes. If multiple individuals wish to address the Board on the same subject, the group is encouraged to appoint a spokesperson.

4. Observe, when necessary and appropriate, the Board President's authority to:
 - a. Shorten the time for each person to address the Board during public participation to conserve time and give the maximum number of people an opportunity to speak; and/or
 - b. Determine procedural matters regarding public participation not otherwise covered in Board policy.
5. Conduct oneself with respect and civility toward others and otherwise abide by Board policy 8:30, *Visitors to and Conduct on School Property*.⁷

Petitions or written correspondence to the Board shall be presented to the Board in the next regular Board packet.⁸

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

⁶ Time limits for any one person to address the Board during public participation may be adjusted up or down. This sample uses five minutes because it is a frequently used time limit. See I.A. Rana Enterprises, Inc. v. City of Aurora, 630 F.Supp.2d 912 (N.D.Ill. 2009) (finding a three-minute time limit reasonable citing Wright v. Anthony, 733 F.2d 575, 577 (8th Cir. 1984) which upheld a five-minute time limit for individual public comments and holding time limits serve “a significant governmental interest in conserving time and in ensuring that others ha[ve] an opportunity to speak”). Note that the Ill. Municipal Code, which applied to the City of Aurora in I.A. Rana Enterprises, Inc., did not have the same requirements as the School Code to allow members of the public to “comment to or ask questions of the board.” I.A. Rana Enterprises, Inc. also predated the 2011 amendments to OMA allowing “[a]ny person an opportunity to address public officials under the rules established and recorded by the public body.”

Based upon I.A. Rana Enterprises, Inc., many attorneys agree that speaker time limits should be a minimum of three minutes per person, but some public bodies have successfully implemented two minutes per person. Consult the board attorney before setting time limits below three minutes.

⁷ See Nuding v. Cerro Gordo CUSD, 313 Ill.App.3d 344 (4th Dist. 2000)(board was authorized to ban parent from attending all school events and extracurricular activities by 105 ILCS 5/24-24; the ban was based on the parent's exposing a toy gun and a pocketknife at a board meeting).

Initiating lawsuits against citizens over their uncivil public comments is tricky. Always consult the board attorney, and in some instances, a board member may need to consult his or her own private attorney. The Ill. Citizen Participation Act (CPA) (735 ILCS 110/15) provides citizens a mechanism to stop lawsuits brought against them for their public comments. The law, referred to as *anti-SLAPP legislation*, prohibits public officials from suing citizens for “any act or acts in furtherance of [their] rights of petition, speech, association, or to otherwise participate in government.” SLAPP means *Strategic Lawsuits Against Public Participation*.

The CPA does not bar public officials from seeking relief when they can allege that (a) the citizen's comments were “not genuinely aimed at procuring favorable government action, result, or outcome,” and/or (b) the citizen engaged in defamation or another intentional tort causing the public official damage. See Sandholm v. Kuecker, 962 N.E.2d 418 (Ill. 2012).

⁸ A board of school directors must reply to a written request for consideration of a matter within 60 days from the board's receipt of the request. 105 ILCS 5/10-6. Boards of education may treat petitions or correspondence according to a uniform, locally developed process, e.g., a board may wish to limit petitions and written correspondence presented to the board to those that are received at the district office via mail or hand delivery.

LEGAL REF.: 105 ILCS 5/10-6 and 5/10-16.
5 ILCS 120/2.06, Open Meetings Act.

CROSS REF.: 2:220 (School Board Meeting Procedure), 8:10 (Connection with the
Community), 8:30 (Visitors to and Conduct on School Property)

General School Administration

Succession of Authority

If the Superintendent, Building Principal, or other administrator is temporarily unavailable, the succession of authority and responsibility of the respective office shall follow a succession plan, developed by the Superintendent and submitted to the School Board. ¹

CROSS REF.: 1:20 (District Organization, Operations, and Cooperative Agreements), 3:30
(Chain of Command)

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

¹ This policy is at the local board's discretion. Submitting the succession plan to the board provides an opportunity for the superintendent to manage the district and provide leadership for the staff while allowing the board to monitor this policy and stay informed. See the IASB's *Foundational Principles of Effective Governance* at: www.iasb.com/pdf/found_prin.pdf. A board may want to approve the succession plan used in the event of an administrator's temporary absence and, if so, should delete ~~submitted to~~ and replace it with "approved by".

Operational Services

Fiscal and Business Management 1

The Superintendent is responsible for the School District's fiscal and business management.² This responsibility includes annually preparing and presenting the District's statement of affairs to the School Board and publishing it before December 1 as required by State law.³

The Superintendent shall ensure the efficient and cost-effective operation of the District's business management using computers, computer software, data management, communication systems, and electronic networks, including electronic mail, the Internet, and security systems. Each person using the District's electronic network shall complete an *Authorization for Access to the District's Electronic Network*.⁴

Budget Planning

The District's fiscal year is from July 1 until June 30.⁵ The Superintendent shall present to the Board, no later than the first regular meeting in August, a tentative budget with appropriate explanation.⁶ This budget shall represent the culmination of an ongoing process of planning for the fiscal support needed for the District's educational program. The District's budget shall be entered upon the Ill. State Board of Education's (ISBE) *School District Budget Form*.⁷ To the extent possible, the tentative budget shall be balanced as defined by ISBE guidelines. The Superintendent shall complete a tentative deficit reduction plan if one is required by ISBE guidelines.⁸

Preliminary Adoption Procedures

After receiving the Superintendent's proposed budget, the Board sets the date, place, and time for:

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. Article 17 of the School Code controls budgeting, tax levys, and tax warrants.

² Boards are authorized to hire a chief school business official. 105 ILCS 5/10-22.23a. Districts having a chief school business official may want to replace "Superintendent" with "Chief School Business Official" throughout this policy.

³ 105 ILCS 5/10-17.

⁴ See exhibits 6:235-AP1, E1, *Student Authorization for Access to the District's Electronic Networks*, and 6:235-AP1, E2, *Staff Authorization for Access to the District's Electronic Networks*. Use of electronic networks in the curriculum is covered in policy 6:235, *Access to Electronic Networks*.

⁵ The board sets the fiscal year (105 ILCS 5/17-1) and this sentence should reflect that local decision. If the board sets an alternative fiscal year, State law provides, "If the beginning of the fiscal year of a district is subsequent to the time that the tax levy due to be made in such fiscal year shall be made, then such annual budget shall be adopted prior to the time such tax levy shall be made." *Id.* Consult the board attorney for guidance on the impact of an alternative fiscal year on the deadlines in this policy.

⁶ The board must designate a person(s) to prepare a tentative budget. 105 ILCS 5/17-1. The purpose of this policy's directive for the superintendent to present a tentative budget "no later than the first regular meeting in August" is to ensure that the budget can be adopted by September 30 (see f/n 13). A board may amend this directive to give the superintendent additional flexibility by requiring him or her to present a tentative budget "during a regular Board meeting in August."

⁷ Required by 105 ILCS 5/17-1. See www.isbe.net/Pages/School-District-Joint-Agreement.aspx.

⁸ *Id.* The budget instructions from ISBE detail when a deficit reduction plan must be completed. State law requires the budget to be balanced and, if not, a three-year deficit reduction plan must be developed.

1. A public hearing on the proposed budget,⁹ and
2. The proposed budget to be available to the public for inspection.¹⁰

The Board Secretary shall arrange to publish a notice in a local newspaper stating the date, place, and time of the proposed budget's availability for public inspection and the public hearing.¹¹ The proposed budget shall be available for public inspection at least 30 days before the time of the budget hearing.

At the public hearing, the proposed budget shall be reviewed, and the public shall be invited to comment, question, or advise the Board.¹²

Final Adoption Procedures

The Board adopts a budget before the end of the first quarter of each fiscal year, September 30, or by such alternative procedure as State law may define.¹³ To the extent possible, the budget shall be balanced as defined by ISBE; if not balanced, the Board will adopt a deficit reduction plan to balance the District's budget within three years according to ISBE requirements.¹⁴

The Board adopts the budget by roll call vote. The budget resolution shall be incorporated into the meeting's official minutes. Board members' names voting *yea* and *nay* shall be recorded in the minutes.¹⁵

The Superintendent or designee shall perform each of the following:

1. Post the District's final annual budget, itemized by receipts and expenditures, on the District's Internet website; notify parents/guardians that it is posted and provide the website's address.¹⁶
2. File a certified copy of the budget resolution and an estimate of revenues by source anticipated to be received in the following fiscal year, certified by the District's Chief Fiscal Officer, with the County Clerk within 30 days of the budget's adoption.¹⁷
3. Make all preparations necessary for the Board to timely file its Certificate of Tax Levy, including preparations to comply with the Truth in Taxation Act; file the Certificate of Tax Levy with the County Clerk on or before the last Tuesday in December. The Certificate lists the amount of property tax money to be provided for the various funds in the budget.
4. Submit the annual budget, a deficit reduction plan if one is required by ISBE guidelines, and other financial information to ISBE according to its requirements.¹⁸

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

⁹ At least one public hearing must be held before final action is taken on the budget. 105 ILCS 5/17-1.

¹⁰ The tentative budget must be conveniently available for public inspection for at least 30 days before final action on the budget. 105 ILCS 5/17-1.

¹¹ 105 ILCS 5/17-1 makes the board secretary responsible for this public notice at least 30 days before the hearing. If there is no newspaper published in the district, notice must be given by posting notices in five of the most public places in the district. 105 ILCS 5/17-1.

¹² State law does not address what transpires during the budget hearing.

¹³ Required by 105 ILCS 5/17-1 and 5/17-3.2. See f/n 5.

¹⁴ Required by 105 ILCS 5/17-1. See f/n 8.

¹⁵ Required by 105 ILCS 5/10-7.

¹⁶ Required by 105 ILCS 5/17-1.2, *only if* the district has a website. Delete this sentence unless the district has a website.

¹⁷ Required by 35 ILCS 200/18-50, which refers to "appropriation and budget ordinances or resolutions." School districts adopt budgets by board resolution. The budget serves as the district's appropriation.

¹⁸ Required by 105 ILCS 5/17-1.

Any amendments to the budget or Certificate of Tax Levy shall be made as provided in the School Code and Truth in Taxation Act. ¹⁹

Budget Amendments

The Board may amend the budget by the same procedure as provided for in the original adoption. ²⁰

Implementation

The Superintendent or designee shall implement the District's budget and provide the Board with a monthly financial report that includes all deficit fund balances. The amount budgeted as the expenditure in each fund is the maximum amount that may be expended for that category, except when a transfer of funds is authorized by the Board.

The Board shall act on all interfund loans²¹, interfund transfers²², transfers within funds²³, and transfers from the working cash fund or abatements of it, if one exists. ²⁴

LEGAL REF.: 105 ILCS 5/10-17, 5/10-22.33, 5/17-1, 5/17-1.2, 5/17-2A, 5/17-3.2, 5/17-11, 5/20-5, 5/20-8, and 5/20-10.
35 ILCS 200/18-55 et seq.
23 Ill.Admin.Code Part 100.

CROSS REF.: 4:20 (Fund Balances), 4:40 (Incurring Debt), 4:60 (Purchases and Contracts), 6:235 (Access to Electronic Networks)

ADMIN. PROC.: 6:235-AP1, E1 (Student Authorization for Access to the District's Electronic Networks), 6:235-AP1, E2 (Staff Authorization for Access to the District's Electronic Networks)

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¹⁹ 105 ILCS 5/17-11 and 35 ILCS 200/18-55 et seq.

²⁰ 105 ILCS 5/17-1; 23 Ill.Admin.Code Part 100.

²¹ 105 ILCS 5/10-22.33, 5/20-4, 5/20-5, 5/20-8, and 5/20-10 and 23 Ill.Admin.Code §100.50. If the district loans money from the working cash fund to another fund, Section 5/20-10 requires the district to maintain a credit to the working cash fund (meaning that borrowing fund must repay the working cash fund).

²² 105 ILCS 5/17-2A contains the requirements for a permanent transfer. P.A.102-671 extended the time period during which a district may transfer money from specified funds for any purpose through June 30, 2024.

²³ Transfers between the various items in any fund may not exceed in the aggregate ten percent of the total of such fund as set forth in the budget. If the aggregate exceeds 10%, the board must amend the budget. 105 ILCS 5/17-1.

²⁴ The purpose of the working cash fund is to enable the school district "to have in its treasury at all times sufficient money to meet demands for expenses." 105 ILCS 5/20-1. School officials, including board members, are liable "for any sum that may be unlawfully diverted from the working cash fund" 105 ILCS 5/20-6.

105 ILCS 5/20-10 codified a long-held practice and understanding of Ill. school districts. A district may abate (reduce the funds) money from the working cash fund at any time and transfer it to any district fund or funds most in need of the money, provided that the district maintains an amount to the credit of the working cash fund. This was a legislative overturn of a case concluding that any permanent transfer, including abatements, of the working cash fund should be transferred only to the education fund. See G.I.S. Venture v. Novak, 388 Ill.App.3d 184 (2nd Dist. 2009); G.I.S. Venture v. Novak, 385 Ill.Dec. 430 (2nd Dist. 2014). Abolishments (deplete all funds) of the working cash fund must still be transferred to the education fund only.

Operational Services

Exhibit - Internal Procedures for Procurement Transactions

Actor	Action
Staff Member	Identifies a procurement need and makes a written request to the appropriate department head and/or Building Principal.
Building Principal, appropriate department head or designee	Evaluates staff member’s request by conducting a needs analysis, determining a funding source, and determining if request should be sent to the Business Manager and/or designee for further analysis. Note: The Principal’s procurement role likely varies based upon each district and type of expense.
Business Manager and/or designee	Upon request of the Building Principal, conducts further analysis of staff member’s request in order to verify information and determine if funds are available. Provides Building Principal with results of further analysis.
Building Principal, appropriate department head or designee	Provides Superintendent and/or designee with staff member’s written procurement request, his/her analysis of the staff member’s request, and, if applicable, any further analysis conducted by the Business Manager and/or designee.
Superintendent and/or designee	<p>Reviews staff member’s request and analyses of same; evaluates educational value of procurement requested. Superintendent and/or designee may then:</p> <ul style="list-style-type: none"> • Approve procurement request if below amount set by the School Board and/or State law (105 ILCS 5/10-20.21); • Deny procurement request; or • If procurement request amount exceeds the Superintendent’s authority, seeks Board permission for procurement. See policy 4:60, <i>Purchases and Contracts</i>, for the amount designated by the Board. <p>When presenting a contract or purchase for Board approval, the Superintendent and/or designee shall ensure it complies with applicable State and federal law, consulting with the Board Attorney as needed. See policies 4:60, <i>Purchases and Contracts</i> and 7:345, <i>Use of Educational Technologies; Student Data Privacy and Security</i>.</p>
School Board	<p>Considers any procurement requests submitted by the Superintendent and/or designee.</p> <p>Considers any contract requests submitted by the Superintendent and/or designee.</p>
Superintendent and/or designee	Identifies appropriate method of procurement and ensures appropriate method is followed.

Operational Services

Resource Conservation ¹

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

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

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¹ State or federal law controls this policy's content. 105 ILCS 5/10-20.19c.

² Required by 105 ILCS 5/10-20.19c(a-5).

³ Required by 105 ILCS 5/10-20.19c(b) - (e).

⁴ Required by 105 ILCS 5/10-20.19c(e-5). Everything in this paragraph is mandatory except that the statute only "encourages" districts to investigate "potential markets for other recyclable materials that are present in the school district's waste stream." 105 ILCS 5/10-20.19c(e-5) is unclear about what year or baseline number or year that a district must use to determine whether it has achieved at least a 50% reduction in the amount of solid waste that it generates by 7-1-20. One option for a baseline may be to use the date this law became effective, which was 7-18-08, or the year closest to it for which the district still retains relevant records; however, consult the board attorney for assistance in determining these baselines.

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

Consult the board attorney about whether an energy conservation measure qualifies for funding as an energy conservation project under the Ill. Finance Authority Act (FAA). 20 ILCS 3501/. The FAA specifically includes energy conservation projects in school districts. 20 ILCS 3501/820-10(c). The FAA's definition of *energy conservation project* is very similar to the School Code's definition of *energy conservation measure* (105 ILCS 5/19b-1.1); it also includes measures that reduce the amount of electricity or natural gas required to achieve a given end use, consistent with the definition of *energy efficiency* in the Ill. Power Agency Act. 20 ILCS 3855/1-10. Funding under the FAA requires a certification that the project will be a cost-effective energy-related project that will lower energy or utility costs in connection with the operation or maintenance of such building or facility, and will achieve energy cost savings sufficient to cover bond debt service and other project costs within 10 years from the date of project installation. 20 ILCS 3501/820-10(c).

LEGAL REF.: 105 ILCS 5/10-20.19c and 5/19b.

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

Operational Services

Administrative Procedure - Bus Driver Communication Devices; Pre-Trip and Post-Trip Inspection; and Bus Driving Comments

Bus Driver Communication Devices

State law prohibits a school bus driver from operating a school bus while using a cellular radio telecommunication device. It requires each school bus to contain either an operating cellular radio telecommunication device or two-way radio while the school bus driver is in possession of the school bus. The cellular radio telecommunication device or two-way radio must be turned on and adjusted in a manner that would alert the driver of an incoming communication request. 625 ILCS 5/12-813.1(b), (e).

Bus drivers may still have cell phones although they are prohibited from using cell phones for anything, including personal use, while operating a bus except: (1) in an emergency situation to communicate with an emergency response operator; a hospital; a physician's office or health clinic; an ambulance service; a fire department, fire district, or fire company; or a police department; (2) to call for assistance in the event of a "mechanical breakdown or other mechanical problem;" (3) to communicate with school authorities or their designees about bus operation or the welfare and safety of any passengers on the bus; or (4) when the bus is parked. 625 ILCS 5/12-813.1(c).

Bus/Vehicle Pre-Trip and Post-Trip Inspection¹

All school bus drivers, whether employed by the School District or private sector school bus company, shall perform each of the following:

1. Comply with the applicable pre-trip inspection of the mechanical and safety equipment on the school bus listed on the *School Bus Driver Pre-Trip Inspection Form* (92 Ill.Admin.Code §§458.1030 and 458.ILLUSTRATION A, *School Bus Driver's Pretrip Inspection Form*). **Note:** 92 Ill. Admin. Code §458.1030(u) requires any variations from the form to be approved by the Dept. of Transportation by calling 217/785-3031 or writing to:

Vehicle-Inspection Unit Manager
Ill. Dept. of Transportation, Div. of Traffic Safety
1340 North 9th St.
P.O. Box 19212
Springfield, IL 62794-9212
2. Test the cellular radio communication device or two-way radio and ensure that it is functioning properly before the bus is operated. 625 ILCS 5/12-816.
3. Perform a visual sweep for children or other passengers at the end of a route, work shift or workday by:

The footnotes should be removed before the material is used.

¹ 625 ILCS 5/12-816(a) requires districts to have a pre-trip and post-trip inspection policy. Sample policy 4:110, *Transportation*, requires the superintendent or designee to develop the inspection procedures. 23 Ill.Admin.Code §1.510 and 92 Ill.Admin.Code §440.420(h) require bus drivers to follow this procedure. 92 Ill.Admin.Code §1035.45 requires the bus driver's prospective or current employer to notify the Secretary of State whenever the bus driver failed to perform the pre-trip and post-trip inspection process.

- a. Activating interior lights of the school bus to assist the driver in searching in and under each seat (625 ILCS 5/12-816(c)), and
- b. Walking to the rear of the school bus/vehicle checking in and under each seat (625 ILCS 5/12-816(a), (b)).

If a mechanical post-trip inspection reminder system is installed, the driver shall comply with the requirements of that system. 625 ILCS 5/12-816(d).

Bus Driving Comments ²

Each school bus and multifunction school activity bus shall display a sign at the rear, with letters and numerals readily visible and readable, in the following form:

TO COMMENT ON MY DRIVING, CALL [*insert District area code and telephone number*] ³

Driving comments shall be accepted in the following manner:

1. Calls to comment on school bus driving shall be directed to the Superintendent or designee.
2. The Superintendent or designee shall conduct an internal investigation of the events that led to each complaint. Required for districts that own school buses by 625 ILCS 5/12-821(c)(1).
3. The Superintendent or designee shall inform the commenting party of the results of any investigation and the action, if any, taken to remedy the situation. Required for districts that own school buses by 625 ILCS 5/12-821(c)(2).

The footnotes should be removed before the material is used.

² This section applies only to districts that own school buses. 625 ILCS 5/12-821(b). The Ill. Vehicle Code requires school bus owners to display an area code and telephone number at the rear of all buses for the purpose of commenting on school bus driving. *Id.* at (a). It allows school bus owners who, before 1-1-10, placed a sign without an area code to use that sign until the owner replaces the sign. School bus owners must also establish procedures for accepting calls and taking complaints. *Id.* at (b).

³ An area code in addition to the telephone number of the school bus owner must be displayed, regardless of whether the owner is a school district or another person or entity. 625 ILCS 5/12-821(a). This procedure's language assumes the district owns the school bus.

Although not mandatory, school districts that do not own school buses should replace #2 with the following sentences; the procedural expectation should also be included in contracts with private carriers:

Every comment that a private company receives about a driver must be noted in writing along with the follow-up activity, and a copy sent or emailed to the Superintendent or designee. The Superintendent will communicate regularly with the school bus owner to ensure bus driving comments are accepted and investigated in accordance with State law.

Operational Services

Exhibit - Accident or Injury Form ¹

The supervisory staff member must complete this form for submission to the Superintendent whenever any person is injured on District property or at a District-sponsored event.

Name of injured person _____

Date of Birth _____ Telephone _____

Address _____

Class, activity, or event _____

Accident location _____

Accident date _____ Time of accident _____

How did the accident occur? (Describe sequence of events) _____

Emergency contact notified? Yes No If no, explain why: _____

If yes, provide the following:

Contact name _____ Relationship _____

Time and method of contact _____ By whom _____

Witnesses Information

Name	Address	Telephone

First aid administered? Yes No

If yes, describe first aid administered and by whom: _____

Supervisor (*please print*)

Signature

Date

The footnotes should be removed before the material is used.

¹ A completed accident form can provide useful information for examining and evaluating risks as well as defending a lawsuit. Many insurance companies require completion of their own forms, which may be adequate without an additional accident form.

Operational Services

Exhibit - Memo to Staff Members Regarding Contacts by Media About a Crisis

If the media attempts to contact you about a death or other crisis, please follow these guidelines:

1. It is perfectly correct to tell a reporter that you would rather not comment on the incident, especially if it has been an emotional strain. Rather than shouting “No comment” (which could imply that you are trying to hide something), say something like, “this incident has affected the school community greatly, and I would prefer to not comment on it.” One should then refer the reporter to the Safety Program Coordinator, person designated for the District’s public relations, or other designated spokesperson.
2. According to School Board policy and the Family Educational Rights and Privacy Act (FERPA), the only information about a student that the school is allowed to release is a verification of period of attendance at the school. If the parent/guardian of a student under age 18, or a student aged 18 or older, gives permission, then certain *directory* information (address, participation in sports or activities, awards received, etc.) may also be released. In the event of such approval, that information will be given to the media by the Superintendent or the designated spokesperson.
3. Best practices are to avoid specific comments about students, such as the following: “_____ was a B student,” “_____ was having trouble in class, and had been referred to the social worker last week,” and “_____ was constantly in trouble for dealing drugs and smoking on school grounds.” Do not speculate, assume, or hypothesize. If a reporter persists with these questions, say something like, “Board policy prohibits me from specifically commenting on any student. Furthermore, I wish to respect the family’s privacy.”
4. Do not feel compelled to correct a reporter if a reporter tells you incorrect information. For example, to try and obtain more information, a reporter might say, “I was informed the student was failing...” Refer the reporter to the Safety Program Coordinator, person designated for the District’s public relations, or the designated spokesperson.
5. For persistent reporters, it may be helpful to acknowledge that you understand that he or she has a job to do, but you have a job to do as well and you do not have authority to comment.
6. If you choose, you may make your own personal comments about how the crisis has affected you. If the incident involved an athlete’s death, the coach might say, “_____’s death is very tragic, and the team and I will miss him/her/them.”
7. You may also address actions the school is taking to deal with the crisis. For example, “Although this is a terrible situation, we are fortunate to have a crisis plan to counsel students and faculty who are understandably upset.”
8. Do not agree to set up interviews with students. All requests for interviews should be directed to the Safety Program Coordinator, person designated for the District’s public relations, or the designated spokesperson.
9. Media ordinarily should not be in a school building following a crisis (see *Appendix F: Planning for the Psychological Aftermath of School Tragedy* of the Ill. State Board of Education *School Emergency and Crisis Response Plan Guide*, available at: www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx). If you are

approached by a member of the media in a school building, immediately notify the Building Principal or other administrator.

10. Do not speculate or comment on the cause of death or other crisis, especially in an apparent suicide or murder. Tell reporters that information on the death should be obtained from the police department.
11. Remember, you do not have to answer any questions at all and may choose to simply refer all reporters to the Safety Program Coordinator, person designated for the District's public relations, or the designated spokesperson.

Operational Services

Administrative Procedure - National Terrorism Advisory System

The National Terrorism Advisory System (NTAS) is designed to convey timely information to the American public about terrorist threats. NTAS issues two types of advisories: *Bulletins* and *Alerts*, which are described below:

Bulletins - Communicate current developments or general trends about terrorism threats without necessarily indicating a specific threat. This means a Bulletin provides broad terrorism threat information that allows recipients to quickly take protective measures.

Alerts - Are only issued when specific, credible information about a terrorist threat is available. An Alert may include specific information, if available, about the nature of the threat, including the geographic region, mode of transportation, or critical infrastructure potentially affected by the threat, as well as steps that individuals and communities can take to protect themselves and help prevent, mitigate, or respond to the threat. Alerts carry an expiration date and will be automatically canceled on that date. Updates to an Alert, as well the cancelation of an Alert, will be distributed in the same way as the original Alert.

Alerts will state whether a threat is *elevated* or *imminent* as follows:

A threat is *elevated* if there is no specific information about the timing or target.

A threat is *imminent* if the threat is believed to be specific and impending.

NTAS advisories are issued by the U.S. Dept. of Homeland Security at: www.dhs.gov/national-terrorism-advisory-system.

District Response Measures

The Superintendent or designee is responsible for tracking Bulletins and Alerts and disseminating those that merit administrative review.

After receiving an NTAS advisory, the Superintendent, Building Principal or other appropriate administrator (*administrator*) will review it and determine what response measures, if any, should be taken. To determine the appropriate response, the administrator should assess the threat to District activities for which he or she is responsible and consider reviewing the threat with other administrators and/or public safety officials. A range of potential response measures are listed below in the column entitled **Potential Response Measures in Addition to Any Suggested by the NTAS Advisory**.

The Superintendent and Building Principal(s) should strongly consider closing school(s) and canceling activities whenever there is an *imminent* threat to the District or one of its buildings.

Response Category	Potential Response Measures in Addition to Any Suggested by the NTAS Advisory
Emergency Planning and Preparedness	Update the school emergency operations and crisis response plan (SEOCR), specifically the emergency and disaster response procedures. See 4:170-AP1, <i>Comprehensive Safety and Security Plan</i> , at Sections G and H. Address critical emergency needs under the direction of public

Response Category	Potential Response Measures in Addition to Any Suggested by the NTAS Advisory
	<p>safety officials.</p> <p>Coordinate emergency plans with county, State, and federal agencies.</p> <p>Inventory emergency supplies and equipment.</p> <p>Maintain current emergency communication lists for employees and students.</p> <p>Test alternative communication capabilities.</p> <p>Designate an alternative communications center located off school property.</p> <p>Review parent/guardian notification procedures.</p> <p>Review procedures to reunite students with their parents/guardians should schools close mid-day.</p>
Communication/Activities with Employees	<p>Instruct employees to report suspicious activities or persons to the administrative office.</p> <p>Conduct emergency and disaster response training for all employees.</p> <p>Disseminate emergency communications methods and resources, e.g., where to get information, to employees.</p> <p>Review SEOCRPs with all employees.</p> <p>Update employee emergency contact numbers.</p>
Communication/Activities with Students	<p>Instruct students to report suspicious activities or persons to any employee.</p> <p>Conduct school safety drills with students.</p>
Classes and School Activities	<p>Close school(s) early.</p> <p>Cancel classes.</p> <p>Cancel outside activities and field trips.</p> <p>Cancel all activities.</p> <p>Cancel regular and/or extracurricular bus service.</p>
Building and Grounds Security	<p>Reassess facility security measures, e.g., lock exterior doors.</p> <p>Increase building security throughout the school system.</p> <p>Implement visitor control procedures.</p> <p>Limit visitor access to school.</p> <p>Prohibit visitor access to school.</p> <p>Prohibit parking near buildings.</p> <p>Request police department to increase patrols around school.</p> <p>Take additional precautions during events and activities, e.g., hiring additional security staff, restricting public access, or canceling the event/activity.</p> <p>In anticipation of a building lockdown, ensure each school</p>

Response Category	Potential Response Measures in Addition to Any Suggested by the NTAS Advisory
	building has a reasonable supply of food, drinking water, medical supplies, back-up communication equipment, generator, batteries, etc.
Parent/Guardian Communication	<p>Disseminate emergency communications methods and resources, e.g., where to get information, to parents/guardians and the community.</p> <p>Update student emergency contact numbers.</p> <p>Test parent/guardian notification procedures.</p> <p>Increase communication with parents/guardians and community via website and email distribution.</p> <p>Inform parents/guardians of procedures to reunite students with parents/guardians should schools close mid-day.</p>

Resources

For further information on NTAS (including to access NTAS Bulletins or Alerts, view sample NTAS advisories, sign up to receive NTAS Alerts, or add NTAS Alerts to a website) see: www.dhs.gov/national-terrorism-advisory-system.

Operational Services

Pandemic Preparedness; Management; and Recovery 1

The School Board recognizes that the District will play an essential role along with the local health department and emergency management agencies in protecting the public's health and safety during a pandemic.²

A pandemic is a global outbreak of disease. Pandemics happen when a new virus emerges to infect individuals and, because there is little to no pre-existing immunity against the new virus, it spreads sustainably.³

To prepare the School District community for a pandemic, the Superintendent or designee shall:⁴ (1) learn and understand how the roles that the federal, State, and local government function; (2) form a pandemic planning team consisting of appropriate District personnel and community members to

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¹ Certain subheads of this policy are required; specifically **Suspension of In-Person Instruction; Remote and/or Blended Remote Learning Day Plan(s)** (see f/n 12, below), and depending upon the specific terms of government orders and/or guidance issued during a pandemic, if a district wishes to continue to charge employee salaries and benefits to a grant during an extended school closure, **Payment of Employee Salaries During Emergency School Closures** (see f/n 11, below). Other subheads and text in this policy are optional. Its purpose is to establish board direction about pandemic preparedness, management, and recovery issues and inform the community about the board's role during a pandemic.

Boards are authorized to adopt a policy on pandemic preparedness even though State and federal law provide little guidance. On 3-11-20, the World Health Organization (WHO) characterized the COVID-19 outbreak as a pandemic. See www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020. Before the COVID-19 pandemic, most research and guidance around pandemics was specific to influenza, but the same principles for influenza pandemics were applied to the management of the COVID-19 pandemic. State law grants boards broad authority to formulate, adopt, and modify school board policies, at the board's sole discretion, subject only to mandatory collective bargaining agreements and State and federal law. 105 ILCS 5/10-20.5 and 115 ILCS 5/1 et seq. See 2:20, *Powers and Duties of the School Board; Indemnification*, and also 2:240, *Board Policy Development*.

Information similar to this policy's content may also be a part of a district's safety plans, which the superintendent uses to implement the board's direction in this policy.

See f/n 3, below for a definition of a pandemic. According to the Centers for Disease Control and Prevention (CDC) guidance, schools serve as an "amplification point" of flu epidemics. **School Superintendent's Insider**, April 2007. School officials should be preparing for the flu pandemic as a U.S. Health and Human Services Pandemic Influenza Plan estimates that about 30 percent of the general population would become ill in a pandemic. The agency estimates among school-aged children the figure would be higher, about 40 percent. Sources: **NSBA and School Board News**, 3-14-06.

² Multiple stakeholders at many levels and in many groups have important roles in effective pandemic preparedness, management, and recovery efforts. Stakeholders include federal departments and agencies, public health organizations, State and local health departments and laboratories, private health care organizations, influenza vaccine and antiviral manufacturers, and vaccine distributors and vaccinators. **Illinois Pandemic Influenza Preparedness and Response Plan**, Version 5.0, May 2014, *Concept of Operations 2.0*, page 36, at: www.idph.state.il.us/pandemic_flu/planning.htm.

³ This paragraph embodies the CDC's pandemic definition. See www.cdc.gov/flu/pandemic-resources/basics/index.html. The **Illinois Pandemic Influenza Preparedness and Response Plan**, Version 5.0, May 2014, also defines pandemic at page 9; however, that definition is specific to influenza. The new COVID-19 coronavirus is not an influenza virus yet was characterized as a pandemic by the World Health Organization.

Prior to the COVID-19 pandemic, literature discussed that during an influenza pandemic, a new influenza virus will cause thousands or even millions of people to contract the disease and, in turn, spread the illness to others because people have not been previously exposed to the new virus. See **School Guidance During an Influenza Pandemic**, December 2006; Ill. State Board of Education (ISBE) opening letter to School Officials dated November 2006 from Dr. Randy J. Dunn and Dr. Eric Whitaker, at: www.idph.state.il.us/pandemic_flu/school_guide/sppg_letter.pdf.

⁴ 105 ILCS 5/10-16.7. The school board directs, through policy, the superintendent in his or her charge of the district's administration.

identify priorities and oversee the development and implementation of a comprehensive pandemic school action plan; and (3) build awareness of the final plan among staff, students, and community.

Emergency School Closing⁵

In the case of a pandemic, the Governor may declare a disaster due to a public health emergency that may affect any decision for an emergency school closing. Decisions for an emergency school closing will be made by the Superintendent in consultation with and, if necessary, at the direction of the

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⁵ In times of emergency, the functions of different levels of State and federal government often become cloudy, and determining what governmental entity has powers to take a particular action can be confusing. The concept of federalism, or the coexistence of federal and state governments with their own local powers, was utilized during the response to the COVID-19 pandemic. Federalism is premised on the Constitutional limits of federal power. See U.S. Const. Art. I, Sec. 8 (limiting powers of Congress providing only those powers enumerated). Generally, during the COVID-19 pandemic, Illinois and other states were left with these remaining powers of government to respond to the crisis. The states' governors and local leaders made state-specific or locality-specific decisions based upon the local conditions in each community. Depending upon the federal administration in power at the time of a pandemic, the federal government may seek to play a greater or lesser role in the management of a pandemic.

Local health departments, emergency medical agencies, and the Regional Office of Education (or appropriate Intermediate Service Center) may direct a school to close during a pandemic. See **School Guidance During an Influenza Pandemic**, December 2006; ISBE opening letter to school officials dated November 2006 from Dr. Randy J. Dunn and Dr. Eric Whitaker. This letter is at: www.idph.state.il.us/pandemic_flu/school_guide/sppg_letter.pdf. Since the 2006 School Guidance During an Influenza Pandemic letter was written, several Illinois schools faced an H1N1 outbreak in 2009, and all Illinois schools faced the COVID-19 pandemic in 2020 and the years following.

The Ill. Dept. of Public Health (IDPH) is also authorized to order a place to be closed and made off-limits to the public to prevent the probable spread of a dangerously contagious or infectious disease. 20 ILCS 2305/2(b).

The Governor also has emergency powers upon his or her declaration of a disaster, which includes among other things public health emergencies. 20 ILCS 3305/4 and 3305/7. Upon such proclamation, the Governor has, and may exercise for a period not to exceed 30 days, several emergency powers. *Id.*

During the 2009 H1N1 outbreak, ISBE directed schools with a statement titled *Closing School in Response to H1N1* that outlined "the decision to close school must be made locally by the school district and in conjunction and support with the relevant local public health department. The impact of a pandemic may vary from region to region. Therefore, it is crucial that district administrators rely on the advice and recommendations of their local public health department." During the COVID-19 pandemic, the Governor and ISBE issued many directives and/or guidance, including reliance upon the advice and recommendations of local public health departments. See www.isbe.net/Pages/covid19.aspx. And see IDPH-ISBE joint schools guidance at: www.dph.illinois.gov/covid19/community-guidance/school-guidance.html.

During the COVID-19 pandemic, protests occurred and many lawsuits were filed challenging Ill. Gov. Pritzker's extensions of disaster declaration emergency power under IEMA, 20 ILCS 3305/7. See the COVID-19 disaster declarations and Executive Orders (EO) at: www.coronavirus.illinois.gov. Controversies existed across party and regional lines with all branches of government looking to balance the need to protect human life against the desire to preserve personal liberty. Gov. Pritzker's EOs faced unsettled challenges in both the courts of law and public opinion as a five-phased plan to re-open Illinois was also being introduced a/k/a *Restore Illinois Plan* (coronavirus.illinois.gov/s/restore-illinois-introduction). Certain EOs required schools to implement specific mitigations, including universal indoor masking, exclusion of close contacts, and vaccination/testing mandates for school personnel. The EOs and the implementing emergency rules adopted by ISBE and IDPH were the subject of frequent litigation, but as of the date of the publication of **PRESS** Issue 109, no Illinois court has issued a final decision addressing the Governor's authority to mandate such mitigations. See *Austin v. Bd. of Educ. of Cmty. Unit. Sch. Dist. 300 et al. v. Pritzker*, 2022 IL 128205 (Ill. 2022). Therefore, the scope of the Governor's authority over schools in a pandemic remains unsettled. Some school personnel objected to the vaccination/testing mandate under the Health Care Right of Conscience Act (HCRCA), 745 ILCS 70/. The General Assembly subsequently amended the HCRCA to clarify that it is not a violation of the HCRCA for public officials or employers to require services by health care personnel (such as testing) intended to prevent the transmission of COVID-19. 745 ILCS 70/13.5, added by P.A. 102-667. Following the HCRCA amendment, an Illinois appellate court denied plaintiff employees emergency relief from the vaccination/testing mandate for school personnel, finding that their claims under the HCRCA were unlikely to succeed. *Graham v. Pekin Fire Dept., et al.*, 2022 IL App (4th) 220270 (4th Dist. 2022).

Governor, Ill. Dept. of Public Health, District's local health department, emergency management agencies, and/or Regional Office of Education.⁶

During an emergency school closing, the Board President and the Superintendent⁷ may, to the extent the emergency situation allows, examine existing Board policies pursuant to Policy 2:240, *Board Policy Development*, and recommend to the Board for consideration any needed amendments or suspensions to address mandates that the District may not be able to accomplish or implement due to a pandemic.⁸

Board Meeting Procedure; No Physical Presence of Quorum and Participation by Audio or Video⁹

A disaster declaration related to a public health emergency¹⁰ may affect the Board's ability to meet in person and generate a quorum of members who are physically present at the location of a meeting. Policy 2:220, *School Board Meeting Procedure*, governs Board meetings by video or audio conference without the physical presence of a quorum.

Payment of Employee Salaries During Emergency School Closures¹¹

The Superintendent shall consult with the Board to determine the extent to which continued payment of salaries and benefits will be made to the District's employees, pursuant to Board policies 3:40, *Superintendent*, 3:50, *Administrative Personnel Other Than the Superintendent*, 5:35, *Compliance with the Fair Labor Standards Act*, 5:200, *Terms and Conditions of Employment and Dismissal*, and 5:270, *Employment At-Will, Compensation, and Assignment*, and consistent with: (1) applicable laws, regulations, federal or State or local emergency declarations, executive orders, and agency directives; (2) collective bargaining agreements and any bargaining obligations; and (3) the terms of any grant under which an employee is being paid.

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⁶ Use this alternative for districts in suburban Cook County: replace "Regional Office of Education" with "appropriate Intermediate Service Center."

⁷ For a board that prefers its policy committee to engage in this work, delete ~~Board President and the Superintendent~~ and insert: Board Policy Committee. See policies 2:150, *Committees* and 2:240, *Board Policy Development*. This sample policy uses the board president and superintendent as the default text because during a pandemic, it may be difficult for a board policy committee to meet pursuant emergency executive orders that are issued, etc.

⁸ For an example of some issues that these entailed during the COVID-19 pandemic, see paragraph six of f/n 12, below.

⁹ 5 ILCS 120/2.01 and 120/7(e), respectively amended and added by P.A. 101-640. See also 105 ILCS 5/10-6, 5/10-12, and 5/10-16.

¹⁰ While 5 ILCS 120/7(e)(1), added by P.A. 101-640, uses the phrase "related to public health concerns," the text "due to public health emergency" aligns with Ill. Emergency Act (IEMA), 20 ILCS 3305/4 and 7, the governing statute of disaster declarations. For ease of understanding and alignment with IEMA, this policy uses "public health emergency." For more discussion, see f/n 33 in sample policy 2:220, *School Board Meeting Procedure*.

¹¹ Required if a district wishes to continue to charge employee salaries and benefits to a grant during an extended school closure, depending upon the specific terms of government orders and/or guidance issued during a pandemic. 2 C.F.R. Part 200 (see www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf, extended until 9-30-20 by www.whitehouse.gov/wp-content/uploads/2020/06/M-20-26.pdf) and 30 ILCS 708/. See sample procedure 4:180-AP3, *Grant Flexibility; Payment of Employee Salaries During a Pandemic*, and its footnotes.

During the COVID-19 pandemic, Gov. Pritzker and ISBE issued directives and/or guidance regarding payment of school district employees that may impact a board's decision regarding continued payment of employees during an extended closure. ISBE and the Governor suspended in-person learning and issued a Joint Statement (JS) with other school administrator and union groups, which purported to mandate that all school district employees on the district's payroll be paid as if districts were functioning normally and they were performing their normal work. See www.isbe.net/Documents/Joint-Statement-Updated%203-27-20.pdf. The JS cited no specific authority for the payment mandate. Additionally, changes to wages, hours, terms and conditions of employment, even when made during an extraordinary circumstance such as a pandemic, remain subject to collective bargaining obligations.

Suspension of In-Person Instruction; Remote and/or Blended Remote Learning Day Plan(s)

When the Governor declares a disaster due to a public health emergency pursuant to 20 ILCS 3305/7, and the State Superintendent of Education declares a requirement for the District to use *Remote Learning Days* or *Blended Remote Learning Days*, the Superintendent shall approve and present to the Board for adoption a Remote and/or Blended Remote Learning Day Plan¹² (Plan) that: ¹³

1. Recommends to the Board for consideration any suspensions or amendments to curriculum-related policies to reduce any Board-required graduation or other instructional requirements

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¹² 105 ILCS 5/10-30(3), added by P.A. 101-643, requires the “[board] to adopt and the superintendent to approve” these plans upon the following statutory triggers: (1) the governor declaring a disaster pursuant to 20 ILCS 3305/, and (2) the state superintendent of education declaring a requirement for a school district, multiple school districts, a region, or the entire State. See sample administrative procedure 6:20-AP, *Remote and/or Blended Remote Learning Day Plan(s)* for the specifics of implementing Remote Learning Days (RLDs) and/or Blended Remote Learning Days (BLRDs).

Implementing a plan under this subhead 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 subhead of the policy concerns an area in which the law is unsettled. See 105 ILCS 5/10-30(7), added by P.A. 101-643 (stating that it does not increase or diminish any collective bargaining rights under existing law). Aspects of the plan that impact the wages or other terms or conditions of employment will need to be bargained with the exclusive bargaining representative(s).

To avoid confusion, note that the triggers under the Open Meetings Act (OMA), 5 ILCS 120/7(e), added by P.A. 101-640, for when a school board may conduct its meetings by audio or video conference without the physical presence of a quorum are a bit more broad: (1) the “governor or the director of IDPH has issued a disaster declaration as defined in 20 ILCS 3305/, and (2) all or part of the jurisdiction of the [school board] is covered by the disaster area. This means that it is possible for the board to meet remotely under OMA if the director of IDPH declares a disaster, but the School Code requires the governor to be the one to declare the disaster under 20 ILCS 3305/ in order for the state superintendent of education to declare that a district implement RLD/BRLDs. RLD/BRLDs and *e-learning days/e-learning programs* are different. RLD/BRLDs are for use when the governor declares a disaster under 20 ILCS 3305/ and the state superintendent has declared a requirement for the district to use them to provide remote instruction to pre-kindergarten through grade 12 that count as pupil attendance days under 105 ILCS 5/10-19.05(j-5), amended by P.A. 101-643. 105 ILCS 5/10-30(1), added by P.A. 101-643. BRLDs allow districts to utilize “hybrid models of in-person and remote instruction. E-learning days are part of an e-learning program that require a board to, among other things, hold a public hearing and obtain approval by the Regional Office of Education (or Intermediate Service Center) to allow the district to provide instruction to students electronically while they are not physically present due to inclement weather and other unexpected events. 105 ILCS 5/10-20.56(b), amended by P.As. 101-12 and 101-643. School districts with e-learning programs may adapt them for use during RLDs and BLRDs (105 ILCS 5/10-20.56(a), amended by P.As. 101-12 and 101-643, and 5/10-30(2), added by P.A. 101-643.

If the board has adopted an e-learning program pursuant to 105 ILCS 5/10-20.56, added by P.A. 101-12, add the following text to number two after 105 ILCS 5/10-30:

2. by adapting into a Plan the District’s e-learning program implemented pursuant to 105 ILCS 5/10-20.56

See sample policies 6:20, *School Year Calendar and Day*, 6:300, *Graduation Requirements*, 6:310, *High School Credit for Non-District Experiences*; *Course Substitutions*; *Re-Entering Students*, and Executive Order 2020-31 (temporarily suspending certain State assessment and graduation requirements (not local requirements that exceed the State-identified minimums)) and allowing local school boards to amend policies to reduce any local graduation requirements adopted in excess of the minimum requirements specified in School Code that school districts were unable to complete during the 2019-20 school year due to the suspension of in-person instruction and/or the Stay-at-Home orders issued in response to the COVID-19 pandemic).

¹³ 105 ILCS 5/10-30(3), added by P.A. 101-643 states “the district shall adopt a remote and blended remote learning day plan approved by the district superintendent.” For ease of administration, to avoid confusion during implementation, and to align with the IASB Foundational Principles of Effective Governance (www.iasb.com/principles_popup.cfm), this policy assigns the duty to *adopt* the remote and blended remote learning day plan (plan) by “the district” to the board. In alignment with this policy, administrative procedure 6:20-AP, *Remote and/or Blended Remote Learning Day Plan(s)*, requires the superintendent to *approve* the plan and present it to the board for *adoption* prior to district-wide implementation and posting on the district’s website.

in excess of minimum curricular requirements specified in School Code that the District may not be able to provide due to the pandemic;¹⁴

2. Implements the requirements of 105 ILCS 5/10-30; and
3. Ensures a plan for periodic review of and/or amendments to the Plan when needed and/or required by statute, regulation, or State guidance.

LEGAL REF.: 105 ILCS 5/10-16.7, 5/10-20.5, 5/10-20.56, and 5/10-30.
5 ILCS 120/2.01 and 120/7(e), Open Meetings Act.
20 ILCS 2305/2(b), Ill. Dept. of Public Health Act (Part 1).
20 ILCS 3305/, Ill. Emergency Management Agency Act.
115 ILCS 5/, Ill. Educational Labor Relations Act.

CROSS REF.: 1:20 (District Organization, Operations, and Cooperative Agreements), 2:20 (Powers and Duties of the School Board; Indemnification), 2:220 (School Board Meeting Procedure), 2:240 (Board Policy Development), 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 3:70 (Succession of Authority), 4:170 (Safety), 5:35 (Compliance with the Fair Labor Standards Act), 5:200 (Terms and Conditions of Employment and Dismissal), 5:270 (Employment At-Will, Compensation, and Assignment), 6:20 (School Year Calendar and Day), 6:60 (Curriculum Content), 6:300 (Graduation Requirements), 7:90 (Release During School Hours), 8:100 (Relations with Other Organizations and Agencies)

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¹⁴ 105 ILCS 5/10-30(8), added by P.A. 101-643, does not excuse districts from completing all statutory and regulatory curricular mandates and offerings.

Operational Services

Administrative Procedure - School Action Steps for Pandemic Influenza or Other Virus/Disease

Building a strong relationship with the local health department and emergency medical agencies is critical for developing a meaningful school action plan to address pandemic influenza (flu) or other virus/disease. The key planning activities in this checklist should build upon the School District’s existing contingency plans.

The following is a list of important step-by-step actions school officials should take before a pandemic flu or other virus/disease outbreak. This list needs to be repeated when an outbreak has several cycles or waves.

Prior to Outbreak/Preparedness and Planning Phase

Actor	Action
Superintendent or designee	Identify Pandemic Planning Team to operate as a Superintendent Committee that includes one or two School Board members, administrators, and staff members.
Superintendent and School Board	Identify, modify, and monitor relevant policies that a pandemic may possibly affect, including but not limited to: 1:20, <i>District Organization, Operations, and Cooperative Agreements</i> 2:20, <i>Powers and Duties of the School Board; Indemnification</i> 2:70, <i>Vacancies on the School Board - Filling Vacancies</i> 2:200, <i>Types of School Board Meetings</i> 2:220, <i>School Board Meeting Procedure</i> 3:70, <i>Succession of Authority</i> 4:130, <i>Free and Reduced-Price Food Services</i> 4:180, <i>Pandemic Preparedness; Management; and Recovery</i> 5:35, <i>Compliance with the Fair Labor Standards Act</i> 5:40, <i>Communicable and Chronic Infectious Disease</i> 5:180, <i>Temporary Illness or Incapacity</i> 5:185, <i>Family and Medical Leave</i> 5:200, <i>Terms and Conditions of Employment and Dismissal</i> 5:270, <i>Employment At-Will, Compensation, and Assignment</i> 5:300, <i>Schedules and Employment Year</i> 5:330, <i>Sick Days, Vacation, Holidays, and Leaves</i> 6:20, <i>School Year Calendar and Day</i> 6:60, <i>Curriculum Content</i> 6:120, <i>Education of Children with Disabilities</i> 6:150, <i>Home and Hospital Instruction</i> 7:70, <i>Attendance and Truancy</i> 7:280, <i>Communicable and Chronic Infectious Disease</i> 8:100, <i>Relations with Other Organizations and Agencies</i>
Superintendent or	Begin review and use of the following publications:

Actor	Action
designee and Pandemic Planning Team	<p>For flu season: School District (K-12) Pandemic Influenza Planning Checklist at: ¹ www.idph.state.il.us/pandemic_flu/school_guide/sppg_checklist.pdf.</p> <p>For COVID-19: Interim Guidance for Administrators of US K-12 Schools and Child Care Programs at: www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html.</p> <p>Review and ensure a succession of authority plan exists in case Board members, administrators, and/or others are unable to fulfill duties during the pandemic. Succession plans for Board members unable to fulfill duties during the pandemic may create a vacancy on the Board. Discuss the issues of succession plans for elected officials with the Board Attorney. See Board policies 2:70, <i>Vacancies on the School Board - Filling Vacancies</i>, and 3:70, <i>Succession of Authority</i>.</p> <p>Work with local health and emergency preparedness officials. They may want to use the schools to disseminate information to families about a crisis.</p> <p>Train employees about FLSA, overtime, and recordkeeping requirements necessary to work during a pandemic while the District is closed.</p> <p>Open communications with employee unions regarding “wages, hours and terms and conditions of employment” during a pandemic. ²</p> <p>Address policies for employee absenteeism, identifying critical job functions, plans for alternate coverage, and return-to-work policies as well as disease symptom recognition. ³</p> <p>Ensure resources for nurses and staff to receive training and personal protective equipment to identify flu or other pandemic disease symptoms. For flu reporting, see 4:180-AP2, <i>Pandemic Influenza Surveillance and Reporting</i>. Remember that a person who is infected does not show symptoms right away, but children becoming ill may show different behavior than usual, such as eating less or being irritable. Knowing the</p>

The footnotes should be removed before the material is used.

¹ This comprehensive checklist was prepared by the U.S. Department of Health and Human Services (HHS) and the Centers for Disease Control and Prevention (CDC), a major operating component of HHS. School districts play an integral role in protecting the health and safety of their staff, students, and families. The HHS and CDC developed this checklist to assist school districts in developing and/or improving plans to prepare for and respond to a flu pandemic.

² During the COVID-19 pandemic, the Governor and the Ill. State Board of Education (ISBE) issued many directives and/or guidance. See the Ill. Gov., ISBE, Ill. Association of School Admin., Ill. Principals Assoc., Ill. Ed. Assoc., and Ill. Fed. of Teachers Joint Statement (*Joint Statement*) at: www.isbe.net/Documents/Joint-Statement-Updated%203-27-20.pdf.

³ This is an item on which collective bargaining may be required. Any matter 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 matter involves an inherent managerial right.

During the COVID-19 pandemic, the Governor and ISBE issued many directives and/or guidance about employees. See the *Joint Statement* (fn2, above) and multiple IDPH-ISBE joint workplace health and safety guidance documents at: www.isbe.net/coronavirus.

Actor	Action
	<p>differences between seasonal and pandemic flu is also critical to pandemic preparedness. A fact sheet is available at: www.cdc.gov/flu/pandemic-resources/basics/about.html.</p> <p>Train staff to protect themselves from occupational exposure to flu or other disease through workplace <i>social distancing</i> based upon the Occupational Safety and Health Administration’s (OSHA), Guidance on Preparing Workplaces for an Influenza Pandemic,⁴ which may be found at: www.osha.gov/pandemic-influenza.</p> <p>Ensure that Standard Surveillance disease recognition procedures are in place and implemented. See 4:180-AP2, <i>Pandemic Influenza Surveillance and Reporting</i>.</p> <p>For flu, encourage the use of simple non-medical ways to reduce the spread of flu by <i>cough and sneeze etiquette</i> and cleansing of hands and work areas. For COVID-19, see the Interim Guidance for Administrators of US K-12 Schools and Child Care Programs, <i>When there is no community transmission (preparedness phase)</i> section at: www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html.</p> <p>Decide to what extent the District will encourage or require students and staff to stay home when they are mildly ill. Some parents/guardians may need to be more cautious in keeping their students out of school.</p> <p>Identify students who have a greater risk of infection and are most vulnerable to serious illness. Review their health needs and encourage those families to talk with their health care providers.</p> <p>Assess nutritional assistance needs for students who receive free and reduced-price food programs. For more information about providing continuity of meal distribution for students eligible for reimbursable meals, see Q & A #5 at: www.isbe.net/Documents/usda_qa072309.pdf and ISBE’s nutrition page specific to managing COVID-19 issues at: www.isbe.net/nutrition.</p> <p>Through consultation with the Regional Office of Education or Intermediate Service Center and local authorities, develop strategies for remote learning through collaborative agreements (television or other local cable stations, teleconferencing, electronic instructional resources, etc.). 105 ILCS 5/10-30, added by P.A. 101-643 and see 6:20-AP, <i>Remote and/or Blended Remote Learning Day Plan(s)</i>.</p> <p>Educate staff, students, and parents/guardians about the differences</p>

The footnotes should be removed before the material is used.

⁴ U.S. Dept. of Labor, Occupational Safety and Health Administration, OSHA 3327-02N, 2007. The handbook provides a general overview of pandemic preparedness related to OSHA standards. It does not alter or determine compliance responsibilities in OSHA standards or the Occupational Safety and Health Act of 1970. Because interpretations and enforcement policy may change over time, consult current OSHA administrative interpretations and decisions by the Occupational Safety and Health Review Commission for additional guidance on OSHA compliance requirements.

Actor	Action
	<p>between the various types of flu, other viruses, and/or other diseases, best hygienic practices to prevent them, and what could occur in a pandemic. See Sample Parent Letter #1, Preparation and Planning at: www.idph.state.il.us/pandemic_flu/school_guide/sppg_ltr_preparation.pdf.</p> <p>Also see, Preparing for the Flu at: www.cdc.gov/h1n1flu/schools/toolkit/pdf/schoolflutoolkit.pdf and www.dph.illinois.gov/topics-services/diseases-and-conditions/influenza#publications-publications-influenza.</p> <p>Review Sections IV and V of School Guidance During an Influenza Pandemic at: www.idph.state.il.us/pandemic_flu/schoolguide.htm.</p>

Outbreak of Flu or Other Virus/Disease

Actor	Action
Superintendent or designee	<p>Depending upon the type of virus/disease:</p> <p>For COVID-19, review the <i>Interim Guidance for Administrators of US K-12 Schools and Child Care Programs</i> at: www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/k-12-guidance.html.</p> <p>For flu, consider issuing Sample Parent Letter # 2, First Bird Case at: www.idph.state.il.us/pandemic_flu/school_guide/sppg_ltr_bird.pdf.</p> <p>Begin Heightened Surveillance responses. See 4:180-AP2, <i>Pandemic Influenza Surveillance and Reporting</i>.</p> <p>Issue Sample Parent/Guardian Letter #3, Illinois/Regional Cases, informing parents/guardians that some students are sick but schools remain open, include tip sheets and information resource list. A sample is at: www.idph.state.il.us/pandemic_flu/school_guide/sppg_il_cases.pdf.</p>
Pandemic Planning Team	<p>When a confirmed case has entered a school, regardless of community transmission, work with local health department regarding a press release announcing that schools will remain open, if applicable, and advising parents/guardians of their need to prepare.</p> <p>A sample, titled Schools Open, is at: www.idph.state.il.us/pandemic_flu/school_guide/sppg_media_open.pdf. Note: If this sample is used for COVID-19, amend it with those specifics.</p>
Building Principal	<p>Post flu or other virus/disease prevention signs on campuses. See Section V of School Guidance During an Influenza Pandemic at: www.idph.state.il.us/pandemic_flu/schoolguide.htm.</p> <p>For COVID-19, see Promoting Behaviors that Reduce Spread subhead in the CDC's Considerations for Schools at: www.cdc.gov/coronavirus/2019-ncov/community/schools-childcare/schools.html, including a handwashing etiquette example at:</p>

	www.cdc.gov/handwashing/when-how-handwashing.html .
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Expansion of the Outbreak

Actor	Action
Local Health Department	Issue epidemic statement to general public.
Superintendent or designee	For flu, begin Intensive Surveillance responses. See 4:180-AP2, <i>Pandemic Influenza Surveillance and Reporting</i> .

Continued Expansion of the Outbreak

Actor	Action
Local Health Department	Evaluate the need for school closure with local school officials.
Superintendent or designee	In consultation with local health department, emergency management agencies, and Regional Office of Education, close school(s). Issue press release. A sample, titled Schools Closed , is at: www.idph.state.il.us/pandemic_flu/school_guide/sppg_media_closed.pdf . Note: If this sample is used for COVID-19, amend it with those specifics. Issue Sample Parent Letter #4, School Closure . A sample is at: www.idph.state.il.us/pandemic_flu/school_guide/sppg_closures.pdf . Note: If this sample is used for COVID-19, amend it with those specifics.
School Board and/or Superintendent	Cancel any non-academic events.

Following the Outbreak

Actor	Action
Local Health Department	Evaluate the advisability of opening school(s) with school officials.
Superintendent or designee	Issue press release that schools are open. Issue Sample Parent Letter #5, Schools Reopen . A sample is at: www.idph.state.il.us/pandemic_flu/school_guide/sppg_reopening.pdf . Note: If this sample is used for COVID-19, amend it with those specifics.
Pandemic Planning Team	Continue communicating with local health department.
Superintendent or designee	For flu, return to Heightened Surveillance response. See 4:180-AP2, <i>Pandemic Influenza Surveillance and Reporting</i> . Begin checklist again if an outbreak recurs.

Local Health Department: ⁵

Regional Office of Education:

Name

Name

Address

Address

Telephone

Telephone

Emergency Management Agencies:

Name

Name

Address

Address

Telephone

Telephone

Important Resources

ISBE and IDPH released a publication titled **School Guidance During an Influenza Pandemic**, December 2006 at:

www.idph.state.il.us/pandemic_flu/schoolguide.htm.

The resource is meant to guide and supplement, not replace school districts' existing plans.

Further information on pandemic flu can be found by calling 1-800-CDC-INFO or at the following websites:

www.cdc.gov/flu/pandemic-resources/index.htm

www.cdc.gov/flu

www.redcross.org

Further information on COVID-19 is subject to continual change. Follow the HHS/CDC and IDPH websites or call 1-800-CDC-INFO.

The footnotes should be removed before the material is used.

⁵ For a local health department director, see www.cdc.gov/publichealthgateway/healthdirectories/index.html.

General Personnel

Communicable and Chronic Infectious Disease ¹

The Superintendent or designee shall develop and implement procedures for managing known or suspected cases of a communicable and chronic infectious disease involving District employees that are consistent with State and federal law, Illinois Department of Public Health rules, and School Board policies. ²

An employee with a communicable or chronic infectious disease is encouraged to inform the Superintendent immediately and grant consent to being monitored by the District's Communicable and Chronic Infectious Disease Review Team. The Review Team, if used, provides information and recommendations to the Superintendent concerning the employee's conditions of employment and necessary accommodations. The Review Team shall hold the employee's medical condition and records in strictest confidence, except to the extent allowed by law. ³

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. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. This policy concerns a topic on which a board should seek legal advice before proceeding.

² District employment is contingent upon satisfactory results of a physical examination and freedom from communicable diseases. 105 ILCS 5/24-5. The U.S. Supreme Court, however, has held that the Rehabilitation Act prohibits discrimination against a person handicapped by a communicable disease, provided that person is "otherwise qualified" to perform the job. *Sch. Bd. of Nassau County, Fla. v. Arline*, 480 U.S. 273 (1987) (teacher with tuberculosis was protected by the Rehabilitation Act). The decision supports the position that an HIV-positive employee or applicant who is "otherwise qualified" to perform the job must be reasonably accommodated despite having AIDS.

Following the expansion of the definition of a disability under the Americans with Disabilities Act Amendments Act (ADAAA), Pub. L. 110-325, the ADAAA may protect an HIV-positive employee or applicant. 42 U.S.C. §12102(2)(A); 29 C.F.R. Part 1630. The federal government's position is that HIV infection qualifies as a disability under the Americans ADAAA. See: www.ada.gov/hiv/ada_hiv_enforcement.htm (U.S. Dept. of Justice) and www.eeoc.gov/eeoc/publications/hiv_individual.cfm (U.S. Equal Employment Opportunity Commission (EEOC)). The EEOC also issued guidance on COVID-19 as a potential disability requiring accommodation under the ADA, see *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws* (updated 12-14-21) at: www.eeoc.gov/coronavirus.

For a discussion of guidance and challenges related to school personnel vaccination/testing mandates and other mitigations during the COVID-19 pandemic, see sample policy 4:180, *Pandemic Preparedness; Management; and Recovery*, at f/n 5.

Other contagious diseases may also qualify as disabilities under the ADAAA; however, employers are not required to accommodate employees in those cases where there is an actual direct threat to the health or safety of others that cannot be eliminated or reduced by reasonable accommodation. 29 C.F.R. §1630.2(r). Boards should consult with their attorneys regarding how the ADAAA and its implementing regulations impact the employment of an individual with a communicable disease who is otherwise qualified to perform the job.

³ This paragraph is optional. While not required by law, the creation and use of a Communicable and Chronic Infectious Disease Review Team (CCIDRT) could greatly assist a district's efforts to review data on an employee who has a communicable or infectious disease. Its members are appointed by the superintendent according to sample policy 2:150, *Committees*. Whether the CCIDRT is an administrative committee organized by the superintendent and/or administrators or a board committee subject to the Open Meetings Act must be discussed with the board attorney (see also 2:150-AP, *Superintendent Committees*). The CCIDRT is guided by the board's policies, Ill. Dept. of Public Health rules and regulations, and all other applicable State and federal laws. The CCIDRT also consults the employee's personal physician and local health department officials before making any recommendations.

An employee with a communicable or chronic infectious disease will be permitted to retain his or her position whenever, after reasonable accommodations and without undue hardship, there is no substantial risk of transmission of the disease to others, provided an employee is able to continue to perform the position's essential functions.⁴ An employee with a communicable and chronic infectious disease remains subject to the Board's employment policies including sick and/or other leave, physical examinations, temporary and permanent disability, and termination.

LEGAL REF.: 42 U.S.C. §12101 et seq., Americans With Disabilities Act, amended by the Americans with Disabilities Act Amendments Act (ADAAA), Pub. L. 110-325; 29 C.F.R. §1630.1 et seq.
29 U.S.C. §791, Rehabilitation Act of 1973; 34 C.F.R. §104.1 et seq.
105 ILCS 5/24-5.
20 ILCS 2305/6, Department of Public Health Act.
820 ILCS 40/, Personnel Record Review Act.
77 Ill.Admin.Code Part 690, Control of Communicable Diseases.

CROSS REF.: 2:150 (Committees), 4:180 (Pandemic Preparedness; Management; and Recovery), 5:30 (Hiring Process and Criteria), 5:180 (Temporary Illness or Temporary Incapacity)

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The Americans with Disabilities Act (ADA) specifies that only an employee's direct supervisor and someone who would need to know in the event of an emergency may have access to an employee's medical records. 42 U.S.C. §12112(d). The Review Team's ability to operate may depend on the employee's waiver of the ADA's confidentiality provisions.

⁴ Required by 42 U.S.C. §12101 et seq. See also f/n 2, above.

General Personnel

Administrative Procedure - Communicable and Chronic Infectious Disease

The following procedures will be implemented when a District employee has a communicable and/or chronic infectious disease. A copy of the procedures will be given to the employee.

The District shall not discriminate against an employee disabled by a communicable or chronic infectious disease. An employee with a communicable or chronic infectious disease will be permitted to retain his or her position whenever, after reasonable accommodations and without undue hardship, there is no substantial risk of transmission of the disease to others, provided an employee is able to continue to perform the position's essential functions.

Evaluation of the Employee's Condition

1. The employee who has or is suspected of having a communicable and chronic infectious disease is encouraged to inform the Superintendent immediately.
2. Upon having knowledge of a known or suspected case of a communicable disease, the Superintendent or designee:
 - a. Notifies the *local health authority*¹ as required by 77 Ill.Admin.Code §690.200 and within the time frames required by 77 Ill.Admin.Code §690.100, and
 - b. Follows directions for temporarily excluding an employee from school according to local health authority direction and 77 Ill.Admin.Code Part 690. See also Exhibit 7:280-E2, *Reporting and Exclusion Requirements for Common Communicable Diseases*, identifying the diseases for which there is mandatory reporting.
3. The Superintendent will inform the Communicable and Chronic Infectious Disease Review Team within three days.²
4. The Communicable and Chronic Infectious Disease Review Team will meet within three days to:
 - a. Meet with the employee or a member of the employee's family to review the status of the employee's health, and
 - b. Evaluate the employee and submit a written report with recommendations to the Superintendent.

The footnotes should be removed before the material is used.

¹ The *local health authority* is a full-time official health department, as recognized by the Ill. Dept. of Public Health (IDPH), having jurisdiction over a particular area, including city, village, township, and county boards of health. If there is not a local health authority recognized by IDPH, the local health authority is IDPH. 77 Ill.Admin.Code §690.10. The Communicable Disease Report Act, 745 ILCS 45/1, grants immunity from slander or libel to persons who in good faith make such reports to local health authorities. A district's duty to report staff cases of communicable diseases aligns with its duty to report student cases; see 7:280-AP, *Managing Students with Communicable or Infectious Diseases*.

² The Americans with Disabilities Act (ADA) specifies that only an employee's direct supervisor and someone who would need to know in the event of an emergency may have access to an employee's medical records. 42 U.S.C. §12112(d). The Review Team's ability to operate depends on the employee's waiver of the ADA's confidentiality provisions.

5. The School Board will receive a report, both written and verbal, of the Communicable and Chronic Infectious Disease Review Team's evaluation from the Superintendent.
6. The employee or a member of the employee's family will receive a report, both written and verbal, of the Communicable and Chronic Infectious Disease Review Team's evaluation from the Superintendent.
7. The employee may be required to submit to a physical examination, given by a physician chosen and paid for by the District.³

Monitoring the Employee's Condition

The employee's health condition will be reviewed on a schedule determined by the Communicable and Chronic Infectious Disease Review Team. The Team's employee status report will be given to the Superintendent.

Each status report will indicate an employment recommendation for the employee, such as:⁴

1. Continued employment at the same position, with possible accommodations,
2. Continued employment but transfer to another position, with possible accommodations,
3. Temporary exclusion from the work place, or
4. Dismissal.

Employee Dismissal

The dismissal of an employee on contractual continued service shall be in accordance with 105 ILCS 5/24-12.

The dismissal of an employee not on contractual continued service shall be in accordance with the law or policy applicable to his or her position.

The footnotes should be removed before the material is used.

³ The federal ADA supersedes 105 ILCS 5/24-5 (allowing boards to require physicals of current employees "from time to time"). 42 U.S.C. §12112(d)(4), amended by the Americans with Disabilities Act Amendments Act (ADAAA), Pub. L. 110-325. The ADA allows medical inquiries of current employees only when they are job-related and consistent with business necessity or part of a voluntary employee wellness program. *Id.* Districts may deny jobs to individuals with disabilities who pose a direct threat to the health or safety of others in the workplace, provided that a reasonable accommodation would not either eliminate the risk or reduce it to an acceptable level. 42 U.S.C. §12113; 29 C.F.R. Part 1630.2(r). Districts should monitor for supplemental guidance that is issued by federal and State agencies during specific disease outbreaks. For example, during the COVID-19 pandemic, the Equal Employment Opportunity Commission (EEOC) and State agencies released guidance that detailed what types of medical inquiries related to COVID-19 were permissible under the ADA and Ill. Human Rights Act. See the State's *Guidance for Employers and Employees on Workers' Rights and Safety* (12-9-20), at: www2.illinois.gov/dhr/Documents/Guidance%20on%20Workers%20Rights%20and%20Safety%2012-9-20.pdf and the EEOC's *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws* (12-14-21), at: www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws.

⁴ A district must make reasonable accommodation to a known physical or mental limitation of an otherwise qualified employee, unless it can show that the accommodation would impose an undue hardship on the district's operation. 42 U.S.C. §§12112 and 12113, amended by the ADAAA.

Confidentiality⁵

The employee's medical condition and records shall be held in strictest confidence and shared only with members of the Communicable and Chronic Infectious Disease Review Team, the employee's direct supervisor, and someone who would need to know in the event of an emergency. Medical records will not become part of the employee's personnel file.

The footnotes should be removed before the material is used.

⁵ The ADA specifies that only an employee's direct supervisor and someone who would need to know in the event of an emergency may have access to an employee's medical records. 42 U.S.C. §12112(d)(3). The review team's ability to operate depends on the employee's waiver of the ADA's confidentiality provisions.

Discuss with the board attorney whether the district is a covered entity as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Pub. L. 104-191. Covered entities must follow HIPAA Privacy Rules (45 C.F.R. Part 164) and generally cannot disclose *protected health information* (PHI), which is generally defined as *individually identifiable health information* that is transmitted by, or maintained in, electronic media or any other form or medium. While a district is likely to have access to such information when an employee has a communicable or chronic infectious disease, the district is still unlikely a *covered entity* triggering HIPAA Privacy Rule. See *HIPAA Privacy Rule and Public Health; Guidance from CDC and the U.S. Department of Health and Human Services* at:

www.cdc.gov/mmwr/preview/mmwrhtml/m2e411a1.htm, and for an additional helpful explanation why school districts are often not HIPAA covered entities because they do not engage in *covered transactions* as defined under HIPAA, see pgs. 7-8 in *Joint Guidance on the Application of the Family Educational Rights and Privacy Act (FERPA) and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) To Student Health Records* at:

www.hhs.gov/sites/default/files/2019-hipaa-ferpa-joint-guidance-508.pdf.

General Personnel

Religious Holidays ¹

The Superintendent shall grant an employee's request for time off to observe a religious holiday if the employee gives at least five days' prior notice and the absence does not cause an undue hardship. ²

Employees may use earned vacation time or personal leave to make up the absence, provided such time is consistent with the District's operational needs. A per diem deduction may also be requested by the employee. ³

LEGAL REF.: 775 ILCS 5/2-101 and 5/2-102, Ill. Human Rights Act.
775 ILCS 35/155, Religious Freedom Restoration Act.

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

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. If a local collective bargaining agreement contains a provision on religious holidays, it will supersede this policy for those covered employees. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement(s)." For employees not covered, the policy should reflect the board's current practice.

² *Religion* includes "all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business." 775 ILCS 5/2-101(F). School employers may require employees to provide up to five days' notice before being absent for a religious holiday. 775 ILCS 5/2-102(E).

³ Not provided by law and optional.

General Personnel

Court Duty¹

The District will deduct any fees that an employee receives for court duty, less mileage and meal expenses, from the employee's compensation, or make arrangements for the employee to endorse the fee check to the District.²

An employee should give at least five days' prior notice of pending court duty to the District.³

Witness Duty

The District will pay full salary during the time a licensed employee is absent due to a subpoena to serve as a witness in a trial or have a deposition taken in any school-related matter pending in court.⁴

Jury Duty

The District will pay full salary during the time a licensed employee is absent due to jury duty.⁵

LEGAL REF.: 105 ILCS 5/10-20.7.
 705 ILCS 305/4.1, Jury Act.

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This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. If a local collective bargaining agreement contains a provision on court duty, it will supersede this policy for those covered employees. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement." For employees not covered, the policy should reflect the board's current practice.

For more information about subpoenas of school district employees and responding to all types of subpoenas generally, see the Ill. Council of School Attorneys guidance document titled **Answers to FAQs Responding to a Subpoena**, at: www.iasb.com/law/FAQsubpoena.pdf.

² State law permits these deductions but does not mandate them. 105 ILCS 5/10-20.7.

³ State law does not provide a deadline, and a district cannot refuse to pay full salary to an employee who fails to follow the policy's deadline.

⁴ The School Code mandates this provision for certificated [licensed] employees serving witness duty. 105 ILCS 5/10-20.7. Despite the statute's limitation to licensed employees, many boards apply this language to educational support personnel. For boards that wish to apply this language to both licensed and educational support personnel, strike ~~licensed~~ from the text and correct the grammar.

⁵ The School Code mandates this provision for certificated [licensed] employees serving jury duty. 105 ILCS 5/10-20.7. In contrast, the Jury Act requires that employers give any employee time off from employment for jury duty, but it does not require that employers pay the employee while on jury duty. 705 ILCS 305/4.1. Despite the statute's limitation to licensed employees, many boards apply this language to educational support personnel. For boards that wish to apply this language to both licensed and educational support personnel, strike ~~licensed~~ from the text and correct the grammar.

General Personnel

Recognition for Service¹

The School Board will periodically recognize those District employees who contribute significantly to the educational programs and welfare of the students.

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

¹ Nothing in this policy is required by law and districts should customize it to meet their needs.

School districts and communities can honor local people for their contributions to local elementary and secondary schools through the following annual Ill. State Board of Education programs: Illinois Teacher of the Year, Those Who Excel, Illinois Excellence in Education, and Gilder Lehrman National History Teacher of the Year Award. Further information is available online at: www.isbe.net/Pages/Elevating-Educators.aspx.

General Personnel

Administrative Procedure - Email Retention ¹

Emails, including attachments, sent or received by the District or District employees may be, depending on their content, subject to disclosure under the Freedom of Information Act and/or discovery in litigation as evidence in support of a claim. Employees must use the same standards of judgment, propriety, and ethics with email as they do with other forms of school business related communications.

Accordingly, employees have the same responsibilities for email messages as they do for any other communication and must distinguish between record and non-record messages. This allows for the proper storage or disposal of email. However, no District record, no matter its form, may be destroyed if it is subject to a litigation hold. See administrative procedure 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*. For guidance on School Board member use and retention of email, see 2:140-E, *Guidance for Board Member Communications, Including Email Use*. For help with these responsibilities, please contact the District's FOIA Officer.

Non-Record Messages

Email messages are *non-record messages* if they do not evidence the District's organization, function, policies, procedures, or activities; or do not contain informational data appropriate for preservation. These are generally informal or preliminary drafts, notes, recommendations, or memoranda that do not contain official action. Examples include:

1. Personal correspondence not received or created in the course of District or school business, such as, "What's for dinner?" or "I'll be glad to drive to the meeting."
2. Duplicates of notices concerning meetings or workshops, dates, discussion topics, or material to prepare for or to be discussed during a meeting.
3. Publications or promotional materials from vendors and similar materials that are sent as part of mass marketing campaigns.
4. Correspondence containing recommendations or opinions that are preliminary to a decision, unless appropriate for preservation, e.g., legal opinions.
5. Informal correspondence to parents/guardians concerning school activities or an individual student's progress or assignments provided the messages do not contain notice of final or official action.
6. Draft material, except when appropriate for preservation, e.g., draft collective bargaining agreement language.

The footnotes should be removed before the material is used.

¹ The process for managing email storage and disposition is generally a local matter subject to the Local Records Act (50 ILCS 205/; governs which documents must be kept until destroyed pursuant to an approved record retention schedule); and/or the Freedom of Information Act (5 ILCS 140/; governs the disclosure of public records; and Federal Rules of Civil Procedure, Rules 16 and 26, prohibits the destruction of material during a discovery hold). See administrative procedure 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*. For guidance on board member use and retention of email, see 2:140-E, *Guidance for Board Member Communications, Including Email Use*.

If the email is a *non-record message*, the employee should delete it as soon as its purpose is fulfilled unless the email is subject to a litigation hold. The goal is to control excessive accumulation of material.

Official Record Messages

Email messages are *official record messages* if they are evidence of the District's organization, function, policies, procedures, or activities or contain informational data appropriate for preservation. Some examples include:

1. Policy documents or contract-related documents.
2. Correspondence, e.g., letters, memos, or emails from individuals, companies, or organizations requesting information about the District or school policies or practices and the responses to these requests.
3. Project reports.
4. Correspondence dealing with significant aspects of District administration or a school executive office, including messages containing information concerning policies, programs, fiscal and personnel matters, and contracts.
5. Correspondence between Board members regarding District business.²
6. Updates provided to a student's parent/guardian about the student's progress or a disciplinary matter.
7. Correspondence between administrators regarding an employee investigation.

Official record messages should routinely be transferred to the records maintenance location identified by the Records Custodian or Head of Information Technology (IT). Before transferring the message, the employee should identify it as belonging in one of the categories of records established by the Records Custodian or Head of IT. Once transferred, it becomes the official copy and the original electronic version may be deleted according to the District's approved record preservation and retention schedule. See administrative procedure 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*.

The footnotes should be removed before the material is used.

² Any electronic communication discussing district business that circulates among a majority of a quorum of the board may qualify as a *meeting* for purposes of the OMA. 5 ILCS 120/1.02 and 120/4. See sample policy 2:140, *Communications To and From the Board*, and exhibit 2:140-E, *Guidance for Board Member Communication, Including Email Use*.

General Personnel

Solicitations By or From Staff ¹

District employees shall not solicit donations or sales, nor shall they be solicited for donations or sales, on school grounds without prior approval from the Superintendent.

CROSS REF.: 8:90 (Parent Organizations and Booster Clubs)

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¹ 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. If a local collective bargaining agreement contains a provision on this issue, it will supersede this policy for those covered employees. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement." For employees not covered, the policy should reflect the board's current practice.

Professional Personnel

Exhibit - Unsatisfactory Performance Report for Substitute Teachers

To be submitted to the Building Principal. Please print.

Substitute's name _____ ID # _____

School _____ Assignment _____

Classroom teacher's name _____ Date of substitution _____

Explanation of area(s) of concern:

Reported by: Student Staff Both

In the future, please do not assign this substitute to:

- Classroom/Teacher's name _____
- Grade level _____
- Building _____
- Any Position _____

Reporter's name (*printed*) _____

Reporter's signature _____

Date _____

Professional Personnel

Suspension ¹

Suspension Without Pay ²

The School Board may suspend without pay: (1) a professional employee pending a dismissal hearing, or (2) a teacher as a disciplinary measure for up to 30 employment days for misconduct that is detrimental to the School District. Administrative staff members may not be suspended without pay as a disciplinary measure. ³

Misconduct that is detrimental to the School District includes:

- Insubordination, including any failure to follow an oral or written directive from a supervisor;
- Violation of Board policy or Administrative Procedure;
- Conduct that disrupts or may disrupt the educational program or process;
- Conduct that violates any State or federal law that relates to the employee's duties; and
- Other sufficient causes.

The Superintendent or designee is authorized to issue a pre-suspension notification to a professional employee. This notification shall include the length and reason for the suspension as well as the deadline for the employee to exercise his or her right to appeal the suspension to the Board or Board-appointed hearing examiner before it is imposed. At the request of the professional employee made within five calendar days of receipt of a pre-suspension notification, the Board or Board-appointed

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¹ State and federal law control this policy's content. The School Code provides that, "[i]f, in the opinion of the board, the interests of the school require it, the board may suspend the teacher **without pay**, pending the hearing, but if the board's dismissal or removal is not sustained, the teacher shall not suffer the loss of any salary or benefits by reason of the suspension," 105 ILCS 5/24-12(d)(1).

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

A superintendent or board should consult the board attorney before taking any action to suspend a licensed employee, with or without pay.

² Under the wage and hours rules, employees who are exempt from overtime requirements become eligible for overtime if they are subject to disciplinary suspensions without pay. *Auer v. Robbins*, 519 U.S. 452 (1997). Teachers are exempt from this rule. Although the U.S. Dept. of Labor modified this rule in 2004, the Illinois legislature rejected these rule changes. 820 ILCS 105/4a. Illinois employers must use the federal rules as they existed on March 30, 2003. This sample policy takes a conservative approach: it does not subject non-teaching professional employees to disciplinary suspensions without pay. Some attorneys believe that non-teaching exempt employees, e.g., administrators, will remain exempt from the Fair Labor Standards Act's overtime requirements as long as suspensions are in increments of a full work week - not day-by-day. Contact the board attorney for an opinion.

The 30-day limit may be modified or deleted.

³ A difference of opinion exists among attorneys concerning whether a board is permitted to authorize the superintendent to suspend teachers without pay. Some attorneys believe such a delegation is void because of the language in 105 ILCS 5/24-12(d)(1), quoted in f/n 1. Others believe that a board may delegate the authority to the superintendent to suspend teachers without pay as a disciplinary measure as opposed to pending a dismissal hearing. Contact the board attorney for advice if the board wants to authorize the superintendent to suspend professional employees without pay.

hearing examiner will conduct a pre-suspension hearing.⁴ The Board or its designee shall notify the professional employee of the date and time of the hearing. At the pre-suspension hearing, the professional employee or his/her representative may present evidence. If the employee does not appeal the pre-suspension notification, the Superintendent or designee shall report the action to the Board at its next regularly scheduled meeting.

Suspension With Pay

The Board or Superintendent or designee may suspend a professional employee with pay: (1) during an investigation into allegations of disobedience or misconduct whenever the employee's continued presence in his or her position would not be in the School District's best interests, (2) as a disciplinary measure for misconduct that is detrimental to the School District as defined above, or (3) pending a Board hearing to suspend a teacher without pay.

The Superintendent shall meet with the employee to present the allegations and give the employee an opportunity to refute the charges. The employee will be told the dates and times the suspension will begin and end.⁵

Employees Under Investigation by Illinois Dept. of Children and Family Services (DCFS)⁶

Upon receipt of a DCFS recommendation that the District remove an employee from his or her position when he or she is the subject of a pending DCFS investigation that relates to his or her employment with the District, the Board or Superintendent or designee,⁷ in consultation with the Board Attorney, will determine whether to:

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

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⁴ Some case law suggests a separate hearing must be held before any suspension without pay is invoked: Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (1985); Barszcz v. Cmty. College Dist. No. 504, 400 F.Supp. 675 (N.D. Ill. 1975); Massie v. East St. Louis Sch. Dist. No. 189, 203 Ill.App.3d 965 (5th Dist.1990); Spinelli v. Immanuel Lutheran Evangelical Congregation, Inc., 118 Ill.2d 389 (1987).

⁵ Only minimal due process is required before a suspension with pay because the property interests at stake are insignificant. Some due process is recommended, however, because a suspension might jeopardize a teacher's good standing in the community and thus infringe the teacher's liberty interests protected by the Constitution. The following option places a ceiling on the number of suspension-with-pay days; the 30-day limit may be modified:

No suspension with pay shall exceed 30 school or working days in length.

⁶ Optional. 325 ILCS 5/7.4(c-5). Consult the board attorney about suspending an employee without pay pursuant to a *DCFS 325 ILCS 5/7.4(c-5)-recommendation*. This language balances the interests of student safety and employee due process when the district receives a recommendation to a remove an employee who is the subject of a DCFS investigation from employment.

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

⁷ The text "Board or Superintendent or designee" allows flexibility if the Superintendent were the subject of a DCFS investigation.

Repayment of Compensation and Benefits

If a professional employee is suspended with pay, either voluntarily or involuntarily, pending the outcome of a criminal investigation or prosecution, and the employee is later dismissed as a result of his or her criminal conviction, the employee must repay to the District all compensation and the value of all benefits received by him or her during the suspension.⁸ The Superintendent will notify the employee of this requirement when the employee is suspended.

LEGAL REF.: 105 ILCS 5/24-12.
5 ILCS 430/5-60(b), State Officials and Employee Ethics Act.
325 ILCS 5/7.4(c-10), Abused and Neglected Child Reporting Act.
Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (1985).
Barszcz v. Cmty College Dist. No. 504, 400 F.Supp. 675 (N.D. Ill. 1975).
Massie v. East St. Louis Sch. Dist. No.189, 203 Ill.App.3d 965 (5th Dist. 1990).

CROSS REF.: 5:290 (Employment Termination and Suspensions)

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⁸ This sentence restates State law. 5 ILCS 430/5-60(b).

Educational Support Personnel

Exhibit - Notice of Employment

On District letterhead

To _____ Date _____

Please accept this letter as an acknowledgment that you have been or are being offered employment with the School District under the terms and conditions as stated in this letter, School Board policy, and any applicable employee handbook and/or collective bargaining agreement. If you wish to accept this offer, sign below and return this letter to the central administrative office.

Job position or title _____

Date and time on which you are to report to work _____

Job location _____

Hours per day _____ Days per week _____

Your hourly rate is \$ _____

The remaining terms and conditions of your employment, as well as any employment benefits, are contained in Board policy and any applicable employee handbook and/or collective bargaining agreement. These items will be discussed during your orientation.

Board President or Secretary Date

Superintendent Date

For successful candidate/employee (*Sign and return to the central administrative office.*)

I understand that I am an employee-at-will and that my employment may be terminated at anytime with or without cause, subject to the terms and conditions of any applicable policy, employee handbook and/or collective bargaining agreement. I agree to comply with the Board's policies, administration's procedures, and supervisors' instructions.

Employee Date

Instruction

Teaching About Religions ¹

The School District's curriculum may include the study of religions as they relate to geography, history, culture, and the development of various ethnic groups. The study of religions shall give neither preferential nor derogatory treatment to any single religion, religious belief, or to religion in general. The study of religions shall be treated as an academic subject with no emphasis on the advancement or practice of religion. ²

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

² Conducting or sponsoring religious practices in public schools violates the First Amendment to the U.S. Constitution. A school district may not provide for religious instruction on public school property. *McCullum v. Bd. of Educ.*, 333 U.S. 203 (1948); *Engel v. Vitale*, 370 U.S. 421 (1962) (reciting a prayer); *Sch. Dist. of Abington Twp v. Schempp*, 374 U.S. 203 (1963) and *Chamberlin v. Dade Co. Bd. of Public Instruction*, 377 U.S. 402 (1964) (bible reading and prayer); *Stone v. Graham*, 449 U.S. 39 (1980) (posting of the Ten Commandments); and *Wallace v. Jaffree*, 472 U.S. 38 (1985) (a moment of silence for "meditation and prayer").

See also *Kitzmiller v. Dover Area Sch. Dist.*, 400 F.Supp.2d 707 (M.D.Pa. 2005). This decision struck a policy on the teaching of intelligent design in high school biology class. The policy required students to hear a statement mentioning intelligent design as an alternative to Darwin's theory of evolution. The court held that it amounted to an endorsement of religion in violation of the Establishment Clause.

The Establishment Clause, however, permits teaching about religion as part of a balanced, secular education. Thus, the study of the Bible or religion is permissible when presented objectively as part of a secular education. *Abington* at 225. See also Subsection III(B), *Teaching about Religion*, of the U.S. Dept. of Educ.'s *Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools* (1-16-20), at: www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html.

Generally, holiday observations will survive constitutional scrutiny if they advance society's cultural and religious heritage or provide an opportunity for students to perform a full range of music, poetry, and drama that is likely to interest the students and their audience. *Florey v. Sioux Falls Sch. Dist.*, 619 F.2d 1311 (8th Cir. 1980), approved a school board policy concerning holiday observations. That policy acknowledged that the school district would not promote a religious belief or non-belief. The policy allowed the historical and contemporary values and origins of religious holidays to be explained in an unbiased and objective manner. Furthermore, it permitted the use of religious music, art, literature, and symbols if presented in an objective manner and as part of the cultural and religious heritage of the particular holiday. The Court believed that Christmas programs, including Christmas carols, allowed students to learn about this country's customs and cultural heritage. A student who objects to participating in such programs must be accommodated.

Public schools are prohibited from appearing to endorse or promote religion through religious holiday displays. Whether a particular display endorses or promotes religion will depend upon the particular context in which it appears. A display that is purely religious and located prominently may send the message that the school is endorsing religion. Mixing secular symbols with the religious symbols and injecting cultural and historical messages into the holiday display will more likely make it acceptable. *Allegheny Cnty. v. Pittsburgh ACLU*, 492 U.S. 573 (1989). See also *Freedom From Religion Foundation v. Concord Cmty. Schs.*, 885 F.3d 1038 (7th Cir. 2018) (finding that school's annual holiday show was not impermissibly coercive in violation of the Establishment Clause and that show's nativity scene did not endorse religion).

See also *Skoros v. City of New York*, 437 F.3d 1 (2nd Cir. 2006). This decision upheld a holiday display policy restricting displays to "secular" symbols, including Christmas trees, menorahs, and the star and crescent, but not allowing displays of a crèche or nativity scene. The ruling was not on the question of whether a public school ever could include a crèche in a display. Instead, the case upheld the board's decision to classify Christmas trees, menorahs, and the star and crescent as either secular or as being both religious and secular, whereas a crèche "is solely a religious symbol."

LEGAL REF.: School Dist. of Abington Twp v. Schempp, 374 U.S. 203 (1963).
Allegheny County v. ACLU Pittsburgh Chapter, 492 U.S. 573 (1989).

CROSS REF.: 6:20 (School Year Calendar and Day), 6:40 (Curriculum Development), 6:60 (Curriculum Content), 6:255 (Assemblies and Ceremonies)

Instruction

Administrative Procedure - Teaching About Religions

The following are guidelines for teaching about religions:

1. Instruction must be age-appropriate to ensure that students will not believe the District is sponsoring religion.
2. Instruction may expose students to religious views, but may not impose any particular views.
3. Instruction must be informational, not indoctrination.
4. Instruction must be academic, not devotional.
5. Instruction may study what people believe, but may not teach a student what to believe.
6. Instruction should include a variety of religions, but should not press for student acceptance of any one religion.

Within the parameters of the academic study of religion, teachers may display objects, artifacts, and symbols that illustrate a variety of religious customs, beliefs, and expressions. Any classroom and school display presented as a part of religious studies or holiday activities must meet the following criteria:

1. The display will be exhibited on a temporary basis.
2. The display will be constructed in a manner that presents no endorsement, favoritism, or promotion of a single religion or religious belief.
3. The display will include non-secular as well as secular symbols.
4. The display will include appropriate descriptive labels attached to the symbols.

Individual student participation in the preparation of a religious study display or a religious holiday display is strictly voluntary. If the display is a class activity, any student who wishes not to participate must be given an alternative assignment.

Instruction

Teaching About Controversial Issues ¹

The Superintendent shall ensure that all school-sponsored presentations and discussions of controversial or sensitive topics in the instructional program, including those made by guest speakers, are:

- Age-appropriate. Proper decorum, considering the students' ages, should be followed.
- Consistent with the curriculum and serve an educational purpose. ²
- Informative and present a balanced view.
- Respectful of the rights and opinions of everyone. Emotional criticisms and hurtful sarcasm should be avoided.
- Not tolerant of profanity or slander.

The District specifically reserves its right to stop any school-sponsored activity that it determines violates this policy, is harmful to the District or the students, or violates State or federal law.

LEGAL REF.: Garcetti v. Ceballos, 547 U.S. 410 (2006).
Mayer v. Monroe Cnty. Cmty. Sch. Corp., 474 F.3d 477 (7th Cir. 2007).

CROSS REF.: 6:40 (Curriculum Development), 6:255 (Assemblies and Ceremonies)

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¹ 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. Before adopting this policy, a school board should review the scope of any clause on academic freedom contained in a collective bargaining agreement.

While this sample policy and its contents are discretionary with each board, its implementation should respect the constitutional rights of students and teachers to free speech and free association. The intent of this policy is to inform students, staff members, and the community that the board has established standards for the teaching and discussion of controversial topics in order to avoid culture wars from being fought in school.

² Public employee First Amendment issues involve the balance between the importance of the speech and the district's interest in maintaining order and effective school operations. The First Amendment "does not entitle primary and secondary teachers, when conducting the education of captive audiences, to cover topics, or advocate viewpoints, that depart from the curriculum adopted by the school system." Mayer v. Monroe Cnty. Cmty. Sch. Corp., 474 F.3d 477, 480 (7th Cir. 2007). See also Brown v. Chicago Bd. of Educ., 824 F.3d 713 (7th Cir. 2016) (upholding discipline of a teacher for violating written policy against using racial epithets in front of students even though he did so to conduct a well-intentioned discussion of why such words are hurtful and must not be used); Kluge v. Brownsburg Cmty. Sch. Corp., 432 F.Supp.3d 823 (S.D.Ind. 2020) (upholding discipline of a teacher for violating written policy requiring employees to address students by their preferred names and genders). Nor is the First Amendment likely to entitle a teacher to protection for purely personal speech that does not touch on a matter of public concern. See Pickering v. High Sch. Dist. 205, 391 U.S. 563 (1968). However, when public employees speak as private citizens on their own time about matters of public concern, they may face only those speech restrictions that are necessary for their employers to operate efficiently and effectively. Garcetti v. Ceballos, 547 U.S. 410 (2006).

Instruction

Administrative Procedure – Service Animals

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

Definitions

Service Animal - A dog or miniature horse trained or being trained as a hearing animal, guide animal, assistance animal, seizure alert animal, mobility animal, psychiatric service animal, autism service animal, or animal otherwise trained to assist an individual with a physical, mental or intellectual disability, according to State law. 105 ILCS 5/14-6.02; 720 ILCS 5/48-8. Federal law defines *service animal* as any *dog* or *miniature horse* that is individually trained to perform tasks or work for the benefit of a student with a disability. 28 C.F.R. §§35.104 and 35.136. Federal law also explains that other species of animals, whether wild or domestic, trained or untrained, are not service animals.

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

For more information about the definition of *service animal*, see the following U.S. Dept. of Justice, Civil Rights Div., *Disability Rights Section*, documents:

Service Animals at: www.ada.gov/service_animals_2010.htm.

Frequently Asked Questions about Service Animals and the ADA at: www.ada.gov/regs2010/service_animal_qa.html.

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

Actor	Action
Parent/Guardian	<p>Informs the School District of the need for a service animal to accompany their disabled child to school.</p> <p>Cooperates with the District to successfully incorporate the service animal into the educational environment.</p>

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

Actor	Action
	<p>above questions is positive, i.e., determines that the service animal will perform tasks for the benefit of a student with a disability.</p> <p>Informs the parent/guardian that the student’s service animal may accompany the student to school, and explains that the service animal must be under the control of its handler at all times and housebroken. 28 C.F.R. 35.136(b), and (d).</p> <p>If the school excludes the service animal:</p> <ol style="list-style-type: none"> 1. Notifies the parent/guardian in writing of the reasons for the exclusion and the right to appeal. Provides any required procedural safeguard notices. See 23 Ill.Admin.Code Part 226; 34 C.F.R. Parts 104 and 300; and 6:120-AP1, E1, <i>Notice to Parents/Guardians Regarding Section 504 Rights</i>. 2. Gives the student with a disability the opportunity to participate in all of the school’s services, programs, or activities without having the service animal at the school facility.
Building Principal	<p>When notice of the need for a service animal in a school facility is provided:</p> <p>Balances student’s need for the service animal and the legitimate safety interests of other students and staff by ensuring the service animal will meet the guidelines listed in 6:120-AP3, E1, <i>Guidelines for Service Animals in School Facilities</i>. Takes appropriate steps to inform the student’s parent/guardian of any unmet guidelines and what actions must be taken to meet these guidelines and avoid exclusion of the service animal.</p> <p>Discusses 6:120-AP3, E1, <i>Guidelines for Service Animals in School Facilities</i>, with building staff. Requests to be immediately informed if the animal’s behavior does not conform to these guidelines.</p> <p>Ensures that the District conducts a criminal background check on any handler(s) pursuant to policy 6:250, <i>Community Resource Persons and Volunteers</i>. See 6:250-AP, <i>Resource Persons and/or School Volunteers; Screening</i>, and 6:250-E, <i>Resource Person and Volunteer Information Form and Waiver of Liability</i>.</p> <p>ADA regulations, 28 C.F.R. §§35.130(f) and 35.136(h), and the Ill. White Cane Law, 775 ILCS 30/3, both prohibit charging a disabled individual a deposit or a surcharge as a condition to allowing a service animal to accompany the disabled individual. Consult the Board Attorney about payment of any criminal background screening fees for an adult handler.</p> <p>Creates a plan with the student’s parent/guardian and the handler for:</p> <ol style="list-style-type: none"> 1. Integrating the animal into the classroom and school environment (assemblies, cafeteria, library, etc.), and 2. Meeting the service animal’s basic needs during the school day.

Actor	Action
	<p>Any plan depends on the individual student’s service animal arrangement, any management issues, and the schedules within each individual building. The school staff is not required to provide care or assistance except in special circumstances. See 28 C.F.R. §35.136(e). Consider addressing: where the animal will relieve itself, who disposes of the waste, where the animal drinks water, and who provides it, etc. Note: While the school is not required to provide staff to take the animal outside, it may need to provide a staff member to accompany a student outside if the student is the animal’s handler. See 28 C.F.R. §35.130(b)(7); <u>Alboniga v. Sch. Bd. of Broward Co. Fla.</u>, 87 F.Supp.3d 1319 (S.D.FL. 2015).</p> <p>Checks with the school nurse regarding any known allergies among students attending the school.</p> <p>Manages identified students’ competing educational interests by:</p> <ol style="list-style-type: none"> 1. With the Superintendent’s permission, consulting the Board Attorney. 2. Minimizing contact between any allergic students and the service animal. 3. Creating a method to monitor identified competing educational interests between students based upon the individual facts of the situation. 4. Responding to future unidentified competing educational interests and managing them immediately. 5. Modifying any other conditions as the individual facts of the situation require. <p>See <u>Kalbfleisch ex rel. v. Columbia Cmty. Unit Sch. Dist.</u>, 396 Ill.App.3d 1105 (5th Dist. 2009), for a discussion about the balancing of interests. Other helpful publications include:</p> <p>The U.S. Dept. of Education’s <i>Reasonable Accommodation Handbook</i>, Section C10, provides information about balancing competing interests in the context of a service animal’s presence in the work environment. See: www2.ed.gov/policy/gen/leg/foia/acshbom3.pdf.</p> <p>The Ill. Attorney General Office’s <i>Disability Rights Service Animals: A Guide for Illinois Businesses and Other Public Accommodations</i> at: www.illinoisattorneygeneral.gov/rights/servanimals.html.</p> <p>The U.S. Dept. of Justice’s <i>Commonly Asked Questions about Service Animals in Places of Business</i> at: www.ada.gov/qasrvc.htm.</p> <p>Klein, Thorp and Jenkins, Ltd. and the Ill. Association of School Boards’ <i>Service Animals Factsheet Q & A</i> at: www.iasb.com/IASB/media/Documents/ServiceAnimalsQA2019.</p>

Actor	Action
	<p>pdf.</p> <p>Facilitates the dissemination of accurate information about the presence of the service animal at school while respecting privacy rights.</p> <p>Considers creating a joint communication from the Building Principal and the parent/guardian of the student using a service animal. The communication should inform other students and their parents/guardians about the placement of a service animal in their educational setting.</p> <p>Providing a joint communication allows the school to exchange the information needed to balance competing educational interests without violating federal or State laws that govern student records. See the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, and its implementing rules at 34 C.F.R. Part 99; Ill. School Student Records Act, 105 ILCS 10/, and its implementing rules at 23 Ill.Admin.Code Part 375. FERPA prohibits schools from disclosing personally identifiable information from students' education records without the consent of a parent or eligible student, unless an exception applies. See policy 7:340, <i>Student Records</i>.</p> <p>Prepares a list of answers to anticipated questions.</p> <p>Educates students, staff, and the community about the rights of students to use service animals in the school and the consequences for mistreatment of animals. See the Humane Care of Animals Act, 510 ILCS 70/4.03, 70/4.04, and 70/7.15 (makes it unlawful to meddle or tamper with a service dog or to tease, strike or mistreat one); Ill. White Cane Law, 775 ILCS 30/4 (makes it unlawful to interfere with the rights of a disabled person).</p> <p>Contacts the student's parent/guardian if at any time the animal fails to meet the guidelines listed in 6:120-AP3, E1, <i>Guidelines for Service Animals in School Facilities</i>.</p> <p>When a service animal arrives at school without notice:</p> <p>Keeps the animal with the student if the service animal is obviously:</p> <ol style="list-style-type: none"> 1. Able to perform tasks or work for the benefit of a student with a disability, 2. Able to stay under the control of its handler and, if not, the handler can take effective action to control it, and 3. Housebroken. <p>Informs staff that the animal may not be taken away from the student.</p> <p>Informs the parent/guardian of this procedure and requests their cooperation with the District to successfully incorporate the service</p>

Actor	Action
	<p>animal into the educational environment.</p> <p>Excludes the animal and contacts the student's parent/guardian if the animal does not obviously meet the conditions in 6:120-AP3, E1, <i>Guidelines for Service Animals in School Facilities</i>.</p> <p>Contacts animal control if the Principal or designee believes the animal is not properly vaccinated, licensed, may be dangerous, or is sick.</p>

LEGAL REF.: 105 ILCS 5/14-6.02.
510 ILCS 70/, Humane Care for Animals Act.
775 ILCS 30/, Ill. White Cane Law.
28 C.F.R. Part 35.
34 C.F.R. Parts 100 and 300.

Instruction

Exhibit - Guidelines for Service Animals in School Facilities ¹

For use by Superintendent and Building Principal only.

This exhibit’s guidelines are not intended for use as an agreement between the District and its students and their parents/guardians as a condition of the student using a service animal. It is intended for use by the Building Principals to:

1. Ensure that the legitimate safety interests of staff and students are met,
2. Inform their individual building staff of these guidelines when service animals are present in their individual buildings, and
3. Request that staff members inform the Building Principal if they observe a service animal that is not meeting any of the listed guidelines.

These guidelines are not based on speculation, stereotypes, or generalizations about students with disabilities. Each guideline includes an explanation based upon State and federal law with legal citations and resources that provide further information.

The animal is *individually trained* to perform tasks for the benefit of a student with a disability.

Explanation	Legal Citation(s) and Resources
<p>A service animal must perform work or an individualized task(s) for the benefit of a student with a disability. When it is not obvious what service the service animal provides, only the following questions may be asked:</p> <ol style="list-style-type: none"> 1. Is the animal a service animal required because of a disability? 2. What work or task has the service animal been trained to perform? 	<p>105 ILCS 5/14-6.02 requires the service animal to be <i>individually trained</i> to perform tasks for the benefit of a student with a disability.</p> <p>28 C.F.R. §§35.104 and 35.136 mirror state law and require that the work or tasks performed by a service animal be directly related to the student's disability. Section 35.104 defines work or tasks, which include but are not limited to, assisting a student who is blind or has low vision with navigation and other tasks; alerting a student who is deaf or hard of hearing to the presence of people or sounds; providing non-violent protection or rescue work; pulling a wheelchair; assisting a student during a seizure; alerting a student to the presence of allergens; retrieving items such as medicine or the telephone; providing physical support and assistance with balance and stability to a student with mobility disabilities; and helping a student with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. Note: Providing</p>

The footnotes should be removed before the material is used.

¹ Managing service animals in the school setting presents many unsettled and complex legal issues. Consult the board attorney for advice before using this exhibit. Illinois law provides little guidance on the issue of service animals in the school setting. Federal rules clarify and strengthen the rights of disabled individuals to use service animals in public places. 28 C.F.R. Part 35.

Explanation	Legal Citation(s) and Resources
	emotional support, well-being, comfort, companionship or being present to deter criminal behaviors does not satisfy the requirement to “perform work or tasks.”

The animal has a current rabies vaccination tag.

Explanation	Legal Citation(s) and Resources
<p>A service animal must have a current rabies vaccination and tag for the safety interests of all individuals in the school environment.</p> <p>School officials must always assume that the service animal is properly licensed.</p>	<p>510 ILCS 5/8 requires a current rabies vaccination, which is verified through a current rabies vaccination tag. Because State law requires animals to receive this vaccination, it is a legitimate safety requirement that is based upon an actual risk for the service animal to access school facilities. 28 C.F.R. §35.130(h).</p> <p>Federal law does not allow the District to ask for proof of a license. This is true even when local municipalities, cities, or villages within the District’s boundaries have additional registration requirements. The U.S. Dept. of Justice opines that unlicensed animals do not pose the same safety concern as those that are not vaccinated, i.e., the fundamental nature of the school environment is not affected by failing to obtain a license. The District may call animal control if there is a legitimate suspicion that the animal is not licensed, and the animal’s owner may then be subject to a fine. However, the animal must still be allowed in the school.</p>

The handler(s) may lawfully:

- 1. Be on school property, and**
- 2. Have contact with children.**

Explanation	Legal Citation(s) and Resources
<p>The animal handler must not be a person who is a <i>sex offender</i>, as defined by the Sex Offender Registration Act, or a <i>violent offender against youth</i>, as defined in the Murderer and Violent Offender Against Youth Registration Act.</p>	<p>720 ILCS 5/11-9.3 prohibits a child sex offender from being present on school property when persons under the age of 18 are present. Because this requirement is State law, it is a legitimate safety requirement based upon an actual risk for the service animal’s handler to access school facilities. 28 C.F.R. §35.130(h).</p> <p>The U.S. Dept. of Justice opines that a service animal’s handler should be treated the same as the District treats all other resource persons and volunteers. Note: Some school boards forbid the use of convicted felons as volunteers.</p> <p>Board policy 6:250, <i>Community Resource Persons and Volunteers</i>, requires the Superintendent to establish procedures for securing and screening resource persons and volunteers. 6:250-AP, <i>Resource</i></p>

Explanation	Legal Citation(s) and Resources
	<i>Persons and/or School Volunteers; Screening</i> , requires criminal history records checks for individuals who work in direct contact with students or where a check would be prudent.

The animal is under the control of the handler and housebroken.

Explanation	Legal Citation(s) and Resources
<p>A service animal must be under the control of its handler.</p> <p>A service animal must be housebroken.</p>	<p>Federal law allows exclusion of a service animal from the school environment when its handler is not able to take effective action to control the animal or the animal is not housebroken. The U.S. Dept. of Justice opines that one accident, however, will not be sufficient for exclusion of a service animal. 28 C.F.R. §35.136.</p> <p>For more examples and explanation regarding effective action to control a service animal and whether an animal is housebroken, see Americans with Disabilities Act, Title II Regulations, Nondiscrimination on the Basis of Disability in State and Local Government Services, <i>2010 Guidance and Section-by-Section Analysis</i> at: www.ada.gov/regs2010/titleII_2010/titleII_2010_regulations.htm.</p>

Instruction

Education of Homeless Children ¹

Each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education as provided to other children and youths, including a public pre-school education.² A *homeless child* is defined as provided in the McKinney-Vento Homeless Assistance Act and the Education for Homeless Children Act.³ The Superintendent or designee shall act as or appoint a Liaison for Homeless Children to coordinate this policy's implementation. ⁴

A homeless child may attend the District school that the child attended when permanently housed or in which the child was last enrolled. A homeless child living in any District school's attendance area may attend that school. ⁵

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

¹ State and federal law control this policy's content. This sample policy contains the basic requirements of the Education for Homeless Children Act (105 ILCS 45/), as well as the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11431 *et seq.*). Other policies that are relevant to the education of homeless children are listed in the Cross References, e.g., school admissions and immunizations.

² For high school districts, delete "including a public pre-school education" at the end of the sentence.

³ Under the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11434a(2)), *homeless children and youths* (A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302(a)(1)); and (B) includes —

- i. children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;
- ii. children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302(a)(2)(C));
- iii. children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- iv. *migratory* children (as such term is defined in section 6399 of title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).

Note: Section §11434a(2) no longer includes children "awaiting foster care placement" within the definition of *homeless children and youths*.

Under the Education for Homeless Children Act (105 ILCS 45/1-5), *Homeless person, child, or youth* includes, but is not limited to, any of the following:

(1) An individual who lacks a fixed, regular, and adequate nighttime place of abode.

(2) An individual who has a primary nighttime place of abode that is:

- (A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);
- (B) an institution that provides a temporary residence for individuals intended to be institutionalized; or
- (C) a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings.

See www.isbe.net/Pages/Homeless.aspx for helpful informational resources and training with regard to the education of homeless children in Illinois. See www2.ed.gov/programs/homeless/legislation.html for the U.S. Dept. of Education's information about federal requirements.

⁴ 42 U.S.C. §11432(g)(1)(J)(ii).

⁵ 105 ILCS 45/1-10.

The Superintendent or designee shall review and revise rules or procedures that may act as barriers to the enrollment of homeless children and youths. In reviewing and revising such procedures, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship.⁶ Transportation shall be provided in accordance with the McKinney-Vento Homeless Assistance Act and State law.⁷ The Superintendent or designee shall give special attention to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school.⁸ If a child is denied enrollment or transportation under this policy, the Liaison for Homeless Children shall immediately refer the child or his or her parent/guardian to the ombudsperson appointed by the Regional Superintendent and provide the child or his or her parent/guardian with a written explanation for the denial.⁹ Whenever a child and his or her parent/guardian who initially share the housing of another person due to loss of housing, economic hardship, or a similar hardship continue to share the housing, the Liaison for Homeless Children shall, after the passage of 18 months and annually thereafter, conduct a review as to whether such hardship continues to exist in accordance with State law.¹⁰

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

⁶ The first sentences in this paragraph are required by 42 U.S.C. §11432(g)(7), 410 ILCS 535/25.3, amended by P.A. 100-506, requires fees for certified copies of birth records be waived for individuals whose homeless status has been verified. A public school homeless liaison or school social worker may verify homeless status, in accordance with procedures established by the State Registrar of Vital Records. *Id.*

⁷ 42 U.S.C. §11432(g)(1)(J)(iii), 42 U.S.C. §11432(g)(4)(A), and 105 ILCS 45/1-15. The School Code and Education for Homeless Children Act permit school districts to use their State transportation funds to provide financial assistance to children who are homeless or who qualify as *at risk of becoming homeless* when: (1) the financial assistance is not in excess of the district's actual costs for providing the transportation to the student, and (2) the district is not otherwise claiming the expenditures through another State or federal grant. 105 ILCS 5/29-5 (transportation reimbursement), amended by P.A. 102-539, and 105 ILCS 45/1-17 (homeless assistance). A child is considered *at risk of becoming homeless* if the child's parent/guardian, other person who enrolls the child, or unaccompanied minor provides documented evidence that the child's living situation will no longer be fixed, regular, and adequate within eight weeks, resulting in the child becoming homeless. 105 ILCS 45/1-17(d). Prior to providing such financial assistance, a district must enter into a written housing plan with the parent/guardian, person who enrolled the child, or unaccompanied minor. *Id.* at 1-17(c). Financial assistance may include: (1) mortgage or rental assistance that will allow a child to remain permanently in his/her living situation or obtain a new living situation; and/or (2) assistance with unpaid bills, loans, or other financial debts that results in housing being inadequate. *Id.* at 1-17(a). See 6:140-AP, *Education of Homeless Children*, ¶n 1, for a discussion of issues that districts should consider in developing such plans.

⁸ Required by 42 U.S.C. §11432(g)(7)(C).

⁹ Required by 105 ILCS 45/1-25. The Ill. State Board of Education's *Homeless Dispute Resolution Procedures* (published September 2017 and updated December 2021) are available at: www.isbe.net/Pages/Homeless.aspx.

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

¹⁰ Optional. 105 ILCS 45/1-25(a-5). As an alternative, a school board may omit this sentence or use a permissive verb, such as, "...the Liaison for Homeless Children may, after the passage of 18 months and annually thereafter, conduct... ." Any change required as a result of this review becomes effective at the close of the school year. Any person who knowingly or willfully presents false information in any review commits a Class C misdemeanor.

LEGAL REF.: 42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.
105 ILCS 45/, Education for Homeless Children Act.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 4:110 (Transportation), 7:10 (Equal Educational Opportunities), 7:30 (Student Assignment and Intra-District Transfer), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students)

ADMIN. PROC.: 6:140-AP (Education of Homeless Children)

Instruction

Administrative Procedure - Education of Homeless Children

Actor	Action
<p>School Board</p> <p style="text-align: center;">Preliminary Step</p>	<p>Upon recommendation of the Superintendent, determine whether to expend transportation funds to provide financial homeless prevention assistance to the parents/guardians (or persons who enroll students) of children who are homeless or <i>at risk of becoming homeless</i>, in accordance with the provisions of 105 ILCS 5/29-5 (amended by P.A. 102-539); 105 ILCS 45/1-17. See duties of the Liaison for Homeless Children below for specific eligibility requirements.</p>
<p>Superintendent</p> <p style="text-align: center;">Preliminary Steps</p>	<p>Serve as or designate an appropriate staff person, who may also be a coordinator for other federal programs, to serve as a Liaison for Homeless Children. 42 U.S.C. §11432(g)(1)(J)(ii).</p> <p>Under the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11434a(2)), <i>homeless children and youths</i> means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of 42 U.S.C. §11302(a)(1)). The term includes:</p> <ol style="list-style-type: none"> 1. Children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals; Note: Section §11434a(2) no longer includes children “awaiting foster care placement” within the definition of <i>homeless children and youths</i>. 2. Children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of Section 11302(a)(2)(C)); 3. Children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and 4. Migratory children (as such term is defined in section 6399 of title 20) who qualify as homeless for purposes of this part because the children are living in clauses (1) through (3) above. <p>Under the Education for Homeless Children Act, 105 ILCS 45/1-5, <i>homeless person, child, or youth</i> includes, but is not limited to, any of the following:</p> <ol style="list-style-type: none"> 1. An individual who lacks a fixed, regular, and adequate nighttime place of abode. 2. An individual who has a primary nighttime place of abode that is: <ol style="list-style-type: none"> a. A supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);

Actor	Action
	<p>b. An institution that provides a temporary residence for individuals intended to be institutionalized; or</p> <p>c. A public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings.</p>
<p>Liaison for Homeless Children</p> <p>Duties</p>	<p>Review and use the information provided at: www.isbe.net/Pages/Homeless.aspx to become aware of the resources and training materials provided by the Illinois State Board of Education with regard to the education of homeless children. See www2.ed.gov/programs/homeless/legislation.html for the U.S. Dept. of Education’s information about federal requirements.</p> <p>Ensure that homeless children and youths are identified by school personnel and through coordinated activities with other entities and agencies. 42 U.S.C. §11432(g)(6)(A)(i).</p> <p>Ensure that homeless children and youths enroll in, and have a full and equal opportunity to succeed in, District programs. 42 U.S.C. §11432(g)(6)(A)(ii).</p> <p>Ensure that homeless families, children, and youths receive educational services for which they are eligible, and make referrals to health care, dental, mental health and substance abuse, housing, and other appropriate services. 42 U.S.C. §11432(g)(6)(A)(iii)-(iv).</p> <p>Inform parents/guardians of educational and related opportunities available to their children, and provide them with meaningful opportunities to participate in their children’s education. 42 U.S.C. §11432(g)(6)(A)(v).</p> <p>Disseminate public notice of the educational rights of homeless children and youths in the location where they receive services (such as schools, shelters, public libraries, and soup kitchens). 42 U.S.C. §11432(g)(6)(A)(vi).</p> <p>Mediate enrollment disputes to:</p> <ol style="list-style-type: none"> 1. Ensure the child/youth is immediately enrolled in the school in which enrollment is sought, pending resolution of the dispute; 2. Provide the homeless child/youth’s parent/guardian with a written explanation of the school’s decision regarding school selection or enrollment, including their rights to appeal the decision; 3. Complete the dispute resolution process as expeditiously as possible; and 4. In the case of an unaccompanied youth, ensure that the youth is immediately enrolled in school pending resolution of the dispute. 42 U.S.C. §11432(g)(3)(E)(iv) and 42 U.S.C. §11432(g)(6)(A)(vii). <p>Fully inform the parent/guardian of a homeless child/youth, and any unaccompanied youth, of all transportation services and assist in accessing transportation services. 42 U.S.C. §11432(g)(6)(A)(viii). Convene a meeting with the parent/guardian and teacher of the child if the travel time to a homeless child’s school of origin is longer than one hour each way, or if the travel time is shorter, but the District wishes to evaluate whether</p>

Actor	Action
	<p>such travel is in the best interest of the child’s development and education. 105 ILCS 45/1-15.</p> <p>Assist unaccompanied youth in placement/enrollment decisions, consider the youth’s wishes in those decisions, and provide notice to the youth of the right to appeal such decisions. 42 U.S.C. §11432(g)(3)(B)(iv).</p> <p>Assist children/youths who do not have immunizations or medical records in obtaining necessary immunizations and/or medical records. 42 U.S.C. §11432(g)(3)(C)(iii).</p> <p>If needed, verify children’s homeless status so they may obtain free copies of their birth certificates, in accordance with procedures established by the State Registrar of Vital Records. 410 ILCS 535/25.3.</p> <p>Collaborate with State and local social service agencies that provide services to the homeless as well as with community and school personnel responsible for the provision of education and related services to homeless children and youths. 42 U.S.C. §11432(g)(5)(A) and (g)(6)(C).</p> <p>Conduct a hardship review whenever a child and his or her parent/guardian who initially share the housing of another person due to loss of housing, economic hardship, or a similar hardship continue to share the housing; a hardship review should be performed after the passage of 18 months and annually thereafter. 105 ILCS 45/1-25(a-5).</p> <p>Make a recommendation to the Superintendent regarding whether the Board should authorize financial homeless prevention assistance for families with children who are homeless or <i>at risk of being homeless</i>. 105 ILCS 5/29-5 (amended by P.A. 102-539); 105 ILCS 45/1-17.</p> <p>In those cases where the parties agree it is in the best interest of the child and District to do so, prepare a written housing plan (Plan) to provide financial assistance in an amount that will allow a child who is homeless or <i>at risk of being homeless</i> to remain permanently in his/her home or obtain new housing.¹ Financial assistance may include: (1) mortgage or rental assistance that will allow a child to remain permanently in his/her living situation or obtain a new living situation; and/or (2) assistance with unpaid bills, loans, or other financial debts that result in housing being inadequate. 105 ILCS 45/1-17(a).</p> <p>Before entering into any such Plan, verify that all of the following requirements have been met in order for the District to claim the financial assistance against its State transportation funds:</p> <ol style="list-style-type: none"> 1. The District has attempted to provide the financial assistance through

The footnotes should be removed before the material is used.

¹ 105 ILCS 45/1-17(c). The law does not detail the specific contents of a Plan; a plan should be locally developed in consultation with the board attorney and/or the district’s auditor. There are several critical issues to consider in developing a Plan: (1) will the financial assistance be provided directly to third parties such as landlords, utility companies, etc., or will it be paid directly to parents/guardians (where there may be more potential for fraudulent activity); (2) what documentation, if any, the district will require to substantiate payment of rent, bills, etc., under the Plan; (3) the duration of the Plan and how often it will be reviewed; and (4) any other controls which should be implemented for auditing purposes.

Actor	Action
	<p>its local homeless assistance agency that is part of the McKinney-Vento Homeless Act's continuum of care. 105 ILCS 45/1-17(b).</p> <ol style="list-style-type: none"> 2. The amount of the financial assistance will not exceed the District's actual costs for providing transportation for the child. 105 ILCS 5/29-5, amended by P.A. 102-539. 3. The District is not otherwise claiming the transportation costs in another State or federal grant. 105 ILCS 5/29-5, amended by P.A. 102-539. 4. If the assistance is to be provided to a child <i>at risk of becoming homeless</i>, the parent/guardian, person who enrolled the child, or unaccompanied minor has provided documented evidence showing that the child's living situation will, within eight weeks, cease to be fixed, regular, and adequate and will result in the child becoming homeless. Acceptable proof includes, but is not limited to: foreclosure notice, eviction notice, utility shut-off or discontinuation notice, or written statement from the parent/guardian, person who enrolled the student, or unaccompanied minor. 105 ILCS 45/1-17(d). <p>Refer the child or his or her parent/guardian to the ombudsperson appointed by the Regional Superintendent whenever a school denies a homeless child enrollment or transportation, and provide the child or his or her parent/guardian with a written statement of the basis for the denial. 105 ILCS 45/1-25(a).</p>
<p>Parents/guardians</p> <p style="text-align: center;">Assignment</p>	<p>Choose the child's attendance center between the following options (105 ILCS 45/1-10 controls because it exceeds the rights granted to parents/guardians in federal law):</p> <ol style="list-style-type: none"> 1. Continuing the child's education in the school of origin for as long as the child remains homeless or, if the child becomes permanently housed, until the end of the academic year during which the housing is acquired; or 2. Enrolling the child in any school that non-homeless students who live in the attendance area in which the child or youth is actually living are eligible to attend. <p>The term <i>school of origin</i> means the school that the child attended when permanently housed or the school in which the child was last enrolled. 42 U.S.C. §11432(g)(3)(I) and 105 ILCS 45/1-5.</p> <p>If the child is attending his/her school of origin, make a good faith effort to provide or arrange for transportation to and from the school of origin, including authorizing relatives, friends, or a program for homeless persons to provide the child with transportation.</p>
<p>Building Principal Where Homeless Student Will be Enrolled</p> <p style="text-align: center;">Enrollment</p>	<p>Shall immediately enroll the homeless child/youth, even if the child/youth is unable to produce records normally required for enrollment, e.g., previous academic records, medical records, proof of residency, or other documentation. 42 U.S.C. §11432(g)(3)(C)(i) and 105 ILCS 45/1-20.</p> <p>Shall immediately contact the school last attended by the child/youth to obtain relevant academic and other records. 42 U.S.C. §11432(g)(3)(C)(ii)</p>

Actor	Action
	<p>and 105 ILCS 45/1-20.</p> <p>If the child/youth needs to obtain immunizations, or immunization or medical records, shall immediately refer the child/youth's parent/guardian to the Liaison for Homeless Children. 42 U.S.C. §11432(g)(3)(C)(iii) and 105 ILCS 45/1-20.</p> <p>Maintain records for the homeless child/youth that are ordinarily kept for students according to District policy and procedure on student school records. 42 U.S.C. §11432(g)(3)(D). See 7:340, <i>Student Records</i>, and 7:340-API, <i>School Student Records</i>.</p> <p>Ensure each homeless child/youth is provided services comparable to services offered to other students including the following (42 U.S.C. §11432(g)(4)):</p> <ol style="list-style-type: none"> 1. Transportation services; 2. Educational services for which the child/youth meets the eligibility criteria, such as services provided under Title I of the Elementary and Secondary Education Act of 1965 or similar State or local programs, educational programs for children with disabilities, and educational programs for English learners; 3. Programs in career and technical education; 4. Programs for gifted and talented students; and 5. School nutrition programs. <p>Shall require a parent/guardian of a homeless child/youth, if available, to submit contact information. 42 U.S.C. §11432(g)(3)(H) and 105 ILCS 45/1-20.</p>
<p>Transportation Director and Building Principal Where Homeless Student Will be Enrolled</p> <p>Transportation</p>	<p>Ensure transportation is provided to a homeless child/youth, at the request of the parent/guardian (or in the case of an unaccompanied youth, the Liaison), to and from the school of origin. 42 U.S.C. §11432(g)(1)(J)(iii); 42 U.S.C. §11432(g)(4)(A). State law, found at 105 ILCS 45/1-15, is superseded by federal law. The term <i>school of origin</i> means the school that the student attended when permanently housed or the school in which the student was last enrolled. 42 U.S.C. §11432(g)(3)(I). Transportation shall be arranged as follows:</p> <ol style="list-style-type: none"> 1. If the homeless child/youth continues to live in the area served by the school district in which the school of origin is located, the child/youth's transportation to and from the school of origin shall be provided or arranged by the district in which the school of origin is located. 2. If the homeless child/youth's living arrangements in the area served by the district of origin terminate and the child/youth, though continuing his or her education in the school of origin, begins living in an area served by another school district, the district of origin and the district in which the homeless child/youth is living shall agree upon a method to apportion the responsibility and costs for providing the student with transportation to and from the school of origin. If the local educational agencies are unable to agree upon such method, the responsibility and costs for transportation shall be shared equally.

Actor	Action
	42 U.S.C. §11432(g)(1)(J)(iii).
<p>Superintendent or Designee</p> <p>Dispute</p>	<p>If a dispute arises, shall inform the homeless child/youth's parents/guardians of the availability of an investigator, sources for low-cost or free legal assistance, and other advocacy services in the community.</p> <p>Each Regional Superintendent appoints an ombudsperson to provide resource information and resolve disputes at schools within his or her jurisdiction relating to the rights of homeless children under this Act. 105 ILCS 45/1-25. The Homeless Family Placement Act governs shelter placement. 310 ILCS 85/1.</p>

Instruction

Exhibit - Resource Person and Volunteer Information Form and Waiver of Liability

Volunteers must complete this form one time each school year. Please print clearly in ink.

Name _____
Last First Middle Telephone

Address _____
Street City Zip Code

Personal physician _____ Telephone _____

Emergency adult contact _____ Telephone _____

Are you now or have you ever been a school volunteer? Yes No

If yes, at which school? _____ Year? _____

Name(s) of any child(ren) attending this school _____

Criminal Conviction Information: Are you a child sex offender? Yes No

Have you ever been convicted of a felony? Yes No If Yes, list all offenses.

Offense	Date	Location
_____	_____	_____
_____	_____	_____

If requested, are you willing to consent to a criminal history records check? Yes No

Waiver of Liability

The School District does not provide insurance coverage to non-District personnel serving as volunteers for the School District. The purpose of this waiver is to provide notice to prospective volunteers that they do not have insurance coverage by the School District and to document the volunteer's acknowledgment that they are providing volunteer service at their own risk.

By your signature below:

You acknowledge that the School District does not provide insurance coverage for any loss, injuries, illness, or death resulting from your unpaid service to the School District.

You agree to assume all risk for death or any loss, injury, illness, or damage of any nature or kind, arising out of your supervised or unsupervised service to the School District. You also agree to waive any and all claims against the School Board, its members, employees, agents or assigns, for loss due to death, injury, illness or damage of any kind arising out of your supervised or unsupervised service to the School District.

For volunteer coaches only: I understand that while fulfilling my coaching responsibilities, I am a school official under State law. In accordance with policy 5:90, *Abused and Neglected Child Reporting*, I will report to the Building Principal any hazing, which includes any unsanctioned or unauthorized act that results in bodily harm to any person. If the act results in death or great bodily harm, I will make a report to law enforcement and promptly notify the Building Principal that a report has been made (720 ILCS 5/12C-50.1).

Volunteer Name (*please print*)

Volunteer Signature

Date

For School Use Only

General description of assignment(s):

- Supervising students as needed by a teacher
- Supervising students during a regularly scheduled activity
- Assisting with academic programs
- Assisting at the resource center or main office
- Other _____

Name of supervising staff member _____

Illinois Sex Offender Database Registry at: <https://isp.illinois.gov/Sor/Disclaimer>

Registry checked by: _____ Date: _____ (*mandatory*)

Illinois Murderer and Violent Offender Against Youth Registry at:

<https://isp.illinois.gov/MVOAY/Disclaimer>

Registry checked by: _____ Date: _____ (*mandatory*)

Dru Sjodin National Sex Offender Public Website (NSOPW) at: <https://www.nsopw.gov/>

NSOPW checked by: _____ Date: _____ (*mandatory*)

To be completed by the Building Principal:

Will the individual be working over a long period of time in direct contact with students where no staff member is continuously present or in other situations where a fingerprint-based criminal history records check would be prudent? Yes No

If *yes*, and provided the individual authorized the fingerprint-based criminal history records check, please provide the following:

Date that the background check was requested _____

Date that the background check was received and reviewed _____

Check reviewed by (*please print*) _____

Signature of Reviewer

Date

Instruction

Homework

Homework is part of the District's instructional program and has the overarching goal of increasing student achievement. Homework is assigned to further a student's educational development and is an application or adaptation of a classroom experience.¹ The Superintendent shall provide guidance to ensure that homework:

1. Is used to reinforce and apply previously covered concepts, principles, and skills;
2. Is not assigned for disciplinary purposes;
3. Serves as a communication link between the school and parents/guardians;
4. Encourages independent thought, self-direction, and self-discipline; and
5. Is of appropriate frequency and length, and does not become excessive, according to the teacher's best professional judgment.

Missed Homework²

Students absent for a valid cause may make up missed homework in a reasonable timeframe per policy 7:70, *Attendance and Truancy*.

CROSS REF.: 7:70 (Attendance and Truancy)

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

¹ This policy's contents are at the local school board's discretion; a board should customize the list of standards for homework to reflect the district's practices. Below are two optional provisions that can be added at the end of the sample policy:

Option 1: Recognizing the importance of parental involvement in homework, the Superintendent or designee shall ensure that parents/guardians are informed of: (1) whom to contact with questions or concerns about homework assignments, and (2) methods to facilitate homework completion.

Option 2: The Superintendent or designee shall annually report to the Board on the effectiveness of homework assignments on increasing student achievement.

² Optional. This aligns with sample policy 7:70, *Attendance and Truancy*.

Instruction

Achievement and Awards ¹

[High school and unit districts only]

Grade Point Average, Class Rank, and Class Honor Roll

The Superintendent shall maintain a uniform process for secondary schools to calculate, on at least a yearly basis, each student's grade point average and class rank, as well as an honor roll for each class.

[All districts]

Awards and Honors

The Superintendent shall maintain a uniform process for presenting awards and honors for outstanding scholarship, achievement, and/or distinguished service in school activities in such a way as to minimize bias and promote fairness.² The Superintendent shall supervise the selection of the recipient(s).

All donations for awards, honors, and scholarships must receive the School Board's prior approval.

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

¹ This policy's contents are at the local board's discretion; a board should customize it to reflect the district's practices. Moving away from class rank is the trend because fewer colleges consider it to be of significant importance in admissions. For a resource on the role of class rank in college admission, see www.nacacnet.org/news--publications/publications/state-of-college-admission/ and www.nassp.org/class-rank-gpa-and-grading/.

² As an alternative, a board may want to list the awards and honors, such as in the following:

The School District annually presents the following awards and honors to students for outstanding scholarship and distinguished service in District activities: *[insert list]*

For high school or unit districts, a board may want to recognize a valedictorian and salutatorian, such as by inserting the following:

In addition to other awards, the Superintendent shall maintain a uniform process for identifying one or more high school senior(s) as valedictorian(s) and salutatorian(s).

Students

Administrative Procedure - Accommodating Transgender, Nonbinary, or Gender Nonconforming Students 1

This procedure's accommodation and support guidelines advance the District's goals of: (1) providing all students equal access to a safe, non-hostile learning environment, and (2) implementing risk management controls in a developing and unsettled area of the law in which the federal Office of Civil Rights (OCR) and Dept. of Justice (DOJ) have issued guidance.

While there is no mandate requiring procedures for accommodating transgender, nonbinary, and gender nonconforming students, this procedure guides school officials through the: (1) application of State and federal anti-discrimination laws to this student population, and (2) common needs for which transgender, nonbinary, or gender nonconforming students may request accommodations and support at school. This procedure applies to all school activities, school-provided transportation, and school-sponsored events regardless of where they occur.

The Building Principal, Nondiscrimination Coordinator,² and/or Complaint Manager, with input from others as appropriate, will implement this procedure. They will work with each transgender, nonbinary, or gender nonconforming student, and as appropriate with the student's parent(s)/guardian(s), to manage a student's accommodations and supports on a case-by-case basis. The Board Attorney will be consulted concerning legal compliance.

Gender-Based Discrimination Is Prohibited

School districts must provide equal educational opportunities to transgender, nonbinary, and gender nonconforming students. Under State law, *sex discrimination* extends to claims of discrimination based on *sexual orientation* and *gender identity*. 775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240. The Ill. Human Rights Act defines *sexual orientation* as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1). The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103.

Federal law prohibits exclusion and discrimination on the basis of *sex*. 20 U.S.C. §1681(a), Title IX of the Education Amendments of 1972. The U.S. Dept. of Education has taken varying positions on the application of Title IX to transgender or gender nonconforming students depending upon the administration in power. However, the Seventh Circuit U.S. Court of Appeals (which has jurisdiction over the State of Illinois) has ruled that a school's practice of denying a transgender student access to

The footnotes should be removed before the material is used.

¹ Administrative procedures guide the district administration's implementation of board policy. To implement a policy, the purpose and function of the policy must be understood. The purpose and function of 7:10, *Equal Educational Opportunities* is three-fold:

- (1) to ensure legal compliance with equal educational opportunity (EEO) laws,
- (2) to direct or authorize the superintendent or staff members to implement EEO laws, and
- (3) to establish board processes, and/or provide information about EEO laws to staff members and students.

This administrative procedure provides considerations for supports and accommodations that transgender students or gender nonconforming students may need as required by policy 7:10, *Equal Educational Opportunities*.

² If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, insert "Title IX Coordinator," here.

the bathroom that aligned with his gender identify violated Title IX because it was a sex-based classification. See Whitaker by Whitaker v. Kenosha Unified Sch. Dist. No. 1 Bd. of Educ., 858 F.3d 1034 (7th Cir. 2017).

School Board policy 7:10, *Equal Educational Opportunities*, recognizes the legal requirements described above. This procedure's guidance on accommodating transgender, nonbinary, or gender nonconforming students is based on non-regulatory guidance from the Ill. State Board of Education (ISBE) and the Ill. Dept. of Human Rights (IDHR), as well as OCR pronouncements. See the last section, **Resources**.

Gender-Based Bullying and/or Harassment Prohibited

The laws prohibiting gender discrimination require the District to protect transgender, nonbinary, and gender nonconforming students from bullying and harassment by other students. Under Title IX of the Education Amendments of 1972 (Title IX), a school district is responsible for damages suffered by a student who was the victim of protected sex-based harassment: unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's educational program or activity. 34 C.F.R. §106.30(a). Board policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, and its accompanying procedures are used to address sex-based harassment as defined in Title IX.

The School Code prohibits bullying on the basis of actual or perceived sexual orientation, gender-related identity or expression, and/or association with a person or group with one of the aforementioned actual or perceived characteristics. 105 ILCS 5/27-23.7(a). The Board policy on bullying and the District's suite of bullying prevention materials are used to address and resolve peer bullying and harassment of transgender or gender nonconforming students. See 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

Terminology and Definitions

The District uses the following terms and definitions when discussing accommodations for a transgender, nonbinary, or gender nonconforming student (from the *Arcadia Resolution Agreement*, 7-24-13, at: www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf and ISBE Non-Regulatory Guidance, *Supporting Transgender, Nonbinary and Gender Nonconforming Students*, at: www.isbe.net/supportallstudents). **Note:** Definitions are not intended to label students, but rather to assist with understanding. *Gender identity*, *sex assigned at birth*, *transgender*, and *gender transition* are defined slightly differently in a *Dear Colleague Letter* issued jointly by the U.S. Depts. of Education and Justice on 5-13-16 (see **Resources** below).

Gender-based discrimination – a form of sex discrimination, refers to differential treatment or harassment of a student based on the student's sex, including gender identity, gender expression, and nonconformity with gender stereotypes, that results in the denial or limitation of education services, benefits, or opportunities. Conduct may constitute gender-based discrimination regardless of the actual or perceived sex, gender identity, or sexual orientation of the persons experiencing or engaging in the conduct.

Sex assigned at birth and assigned sex – a label a person is given at birth, often based on a medical professional's interpretation of the newborn's physical characteristics. Common examples may be *male* or *female*. This is typically the sex reflected on one's original birth certificate.

Gender expression – an individual's characteristics and behaviors such as appearance, dress, grooming, mannerisms, voice or speech patterns, activities, and social interactions that are perceived as masculine, feminine, both, or neither.

Gender identity – a person’s internal, deeply held sense or psychological knowledge of their own gender that can include being female, male, another gender, nonbinary, gender nonconforming, or no gender, and is unrelated to the person’s sex assigned at birth. Gender identity is an innate part of a person’s identity, and the responsibility for determining an individual’s gender identity rests with the individual. Unlike gender expression, gender identity is not visible to others.

Nonbinary – a term used to describe people whose gender identity is not exclusively male or female, including those who identify as a gender other than male or female, as more than one gender, or as no gender.

Transgender – an individual whose gender identity is different from the individual’s assigned sex at birth. Being transgender is not dependent on appearance, body parts, or medical procedures. Transgender can also be used as an umbrella term that encompasses diversity of gender identities and expressions. For purposes of this procedure, a *transgender student* is a student who consistently and uniformly asserts a gender identity different from the student’s assigned sex, or for whom there is documented legal or medical evidence that the gender identity is sincerely held as part of the student’s core identity.

Intersex – a term used for a variety of conditions in which a person is born with a reproductive and/or sexual anatomy that does not seem to fit the typical, binary definitions of female or male. Intersex conditions are not always discernable at birth or the awareness of internal anatomy present at birth may not be known to the person until puberty, if it is known at all. A derogatory term previously used for intersex individuals is hermaphrodite.

Gender transition – the process whereby people may change their gender expression, bodies, and/or identity documents to match their gender identity. Transition can be social (changing gender expression, using facilities, using a different name/pronouns), medical (hormones and/or surgeries), and/or legal (changing name/gender marker on identity documents), and is different for every individual. It is common for gender transition to be an ongoing process and is unique to each person.

Gender stereotypes – stereotypical notions of masculinity and femininity, including expectations of how boys or girls represent or communicate one’s gender to others, such as behavior, clothing, hairstyles, activities, voice, mannerisms, or body characteristics.

Gender nonconforming or gender expansive – one’s gender expression or gender identity that does not conform to traditional, societal, or stereotyped expectations based on the sex assigned at birth. Gender expansive individuals may identify as male, female, some combination of both, or neither.

Gender pronouns – the set of words used to refer to someone without using their name. Common examples include, but are not limited to, “she/her/hers,” “he/him/his,” “they/them/theirs,” and “ze/zir/zirs.”

Gender support plan – a document that may be used to create a shared understanding about the way in which a student’s gender identity will be accounted for and supported at school.

Facilities – refers to facilities and accommodations used by students at school or during school-sponsored activities and trips, and include, but are not limited to, restrooms, locker rooms, and overnight facilities.

Relevant Board Policies for Accommodations, Supports, and Inclusion of Transgender, Nonbinary, or Gender Nonconforming Students

2:260, *Uniform Grievance Procedure*, contains the process for an individual to seek resolution of a complaint. A student may use this policy to complain about bullying. The District Complaint Manager shall address the complaint promptly and equitably.

- 2:265, *Title IX Sexual Harassment Grievance Procedure*, contains the process for an individual to report or complain of sexual harassment in violation of Title IX. The District Nondiscrimination Coordinator³ shall address the report or complaint promptly and equitably.
- 6:60, *Curriculum Content*, requires the history curriculum to include a study of the roles and contributions of lesbian, gay, bisexual, and transgender (LGBT) people in the history of the U.S. and Illinois and, if offered by the District, requires the implementation of a comprehensive health education program in accordance with State law, which may include the National Sex Education Standards (NSES) sex education curriculum. If NSES is offered, it must be inclusive and sensitive to students' needs on many bases, including based on their status as intersex and based on their gender, gender identity, and gender expression. See 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*.
- 6:65, *Student Social and Emotional Development*, requires that social and emotional learning be incorporated into the District's curriculum and other educational programs.
- 7:10, *Equal Educational Opportunities*, requires that equal educational and extracurricular opportunities be available to all students without regard to, among other protected statuses, sex, sexual orientation, and gender identity.
- 7:20, *Harassment of Students Prohibited*, prohibits *any* person from harassing, intimidating, or bullying a student based on an actual or perceived characteristic that is identified in the policy including, among other protected statuses, sex, sexual orientation, and gender identity.
- 7:130, *Student Rights and Responsibilities*, recognizes that all students are entitled to rights protected by the U.S. and Illinois Constitutions and laws for persons of their age and maturity in a school setting.
- 7:160, *Student Appearance*, prohibits students from dressing or grooming in such a way as to disrupt the educational process, interfere with a positive teaching/learning climate, or compromise reasonable standards of health, safety, and decency.
- 7:165, *Student Uniforms*, encourages students to wear school uniforms in order to maintain and promote orderly school functions, school safety, and a positive learning environment, if adopted.
- 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, contains the comprehensive structure for the District's bullying prevention program.
- 7:185, *Teen Dating Violence Prohibited*, prohibits students 13-19 years of age from using or threatening to use physical, mental, or emotional abuse to control an individual in the dating relationship, and from using or threatening to use sexual violence in the dating relationship.
- 7:250, *Student Support Services*, directs the Superintendent to develop protocols for responding to students' social, emotional, or mental health needs that impact learning.
- 7:290, *Suicide and Depression Awareness and Prevention*, directs the Superintendent to develop, implement, and maintain a suicide and depression awareness and prevention program.
- 7:330, *Student Use of Buildings - Equal Access*, grants student-initiated groups or clubs the free use of school premises for their meetings, under specified conditions.
- 7:340, *Student Records*, contains the comprehensive structure for managing school student records, keeping them confidential, and providing access as allowed or required.

The footnotes should be removed before the material is used.

³ If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, replace "Nondiscrimination Coordinator" with "Title IX Coordinator."

Common Needs for Transgender, Nonbinary, or Gender Nonconforming Students; Accommodations and Supports

The goal of an accommodation is to allow a transgender, nonbinary, or gender nonconforming student to equally participate in educational and extracurricular opportunities. The right of transgender students to accommodations is generally found in legislation (Ill. Human Rights Act and Title IX) but has not been fully interpreted by the courts. Determining appropriate accommodations must be made on a case-by-case basis depending upon the needs expressed by the student.

The Superintendent may establish a gender support team that will identify accommodations for a specific student. Those accommodations may be documented in a gender support plan or other written document. The Board Attorney should be consulted and may be invited to be a member of the team.

This following list of possible accommodation considerations is not exhaustive, and each student's request must be managed on a case-by-case basis. A particular student may not be interested in an accommodation for each item listed. Seek the Board Attorney's advice concerning the scope and extent of accommodations.

1. Gender transition
2. Names and gender pronouns. See Kluge v. Brownsburg Cmty. Sch. Corp., 432 F.Supp.3d 823 (S.D.Ind. 2020) (upholding discipline of a teacher for violating written policy requiring employees to address students by their preferred names and genders).

3. School student records

For managing demographic information in the ISBE Student Information System, see www.isbe.net/Documents/student_demographics.pdf.

ISBE has postponed the collection of student sex and sexual orientation data, required by the Data Governance and Organization to Support Equity and Racial Justice Act (20 ILCS 65/20-15), until the 2023-24 school year. See www.isbe.net/Documents/Memorandum-Collection-of-Student-Sex-Sexual-Orientation.pdf.

4. Student privacy and confidentiality
5. Access to gender-segregated areas, e.g., locker rooms and restrooms
6. Sports and physical education classes - participation in competitive athletic activities and contact sports is resolved pursuant to IHSA policy #34, *Policy and School Recommendations for Transgender Participation* at: www.ihsa.org/About-the-IHSA/Constitution-By-laws-Policies.
7. Dress codes
8. Gender segregation in other activities, e.g., class discussions and field trips (including any overnight school trips)
9. Communication with a new school about gender-specific accommodations upon transfer or graduation

Training for School Staff Members

Professional development for staff members should include regular opportunities to gain a better understanding of equal educational opportunity laws, gender identity, gender expression, and gender diversity; the development of gender identity in children and adolescents; developmentally appropriate strategies for communicating with students and parents/guardians about issues related to gender identity; gender-affirming approaches to ensuring the safety and support of transgender,

nonbinary, and gender nonconforming students; developmentally appropriate strategies for preventing and intervening in bullying incidents; and Board policies regarding equal educational opportunities, bullying, discrimination, and student privacy.

Resources

IDHR, *Non-Regulatory Guidance Relating to Protection of Transgender, Nonbinary, and Gender Nonconforming Students Under the Ill. Human Rights Act* (December 2021), at: www2.illinois.gov/dhr/Publications/Pages/Guidance-Relating-to-Protection-of-Transgender-Nonbinary-and-Gender-Nonconforming-Students.aspx.

ISBE, *Supporting Transgender, Nonbinary, and Gender Nonconforming Students* (March 1, 2020), at: www.isbe.net/supportallstudents.

Gender Spectrum, an organization whose mission is to help create gender sensitive and inclusive environments for all children and teens, at: www.genderspectrum.org.

Mass. Dept. of Elementary and Secondary Education, *Guidance for Massachusetts Public Schools Creating a Safe and Supportive School Environment Nondiscrimination on the Basis of Gender Identity* (undated), at: www.doe.mass.edu/sfs/lgbtq/GenderIdentity.html.

OCR *Dear Colleague Letter*, harassment and bullying (2010), at: www2.ed.gov/about/offices/list/ocr/letters/colleague-201010.html.

OCR and DOJ Consent Decrees and Resolution Agreements at: www2.ed.gov/about/offices/list/ocr/docs/investigations/05115901.html (Anoka-Hennepin School District, MN, 3-5-12).

www2.ed.gov/about/offices/list/ocr/docs/investigations/09111031.html (Tehachapi Unified School District, CA, 7-7-11).

www.justice.gov/crt/about/edu/documents/arcadiaagree.pdf (Arcadia Unified School District, CA, 7-24-13).

OCR Resources for LGBTQI+ Students, at:

www2.ed.gov/about/offices/list/ocr/lgbt.html

Executive Order No. 11,246, 30 FR 12319, 12935, 3 CFR, 1964-1965 Comp., p. 339, (1965), as amended on 7-21-14, prohibits discrimination by the federal government or federal contractors on the basis of sexual orientation or gender identity. The Secretary of Labor was directed to prepare implementing regulations within 90 days (or by 10-19-14).

The School Leaders Risk Management Association. *District Transgender and Gender Non-conforming Student Practice and Policy*, May 2014 (Copyright - Chicago: Brokers Risk Placement Service, Inc., 2014).

Students

Administrative Procedure - Accommodating Breastfeeding Students ¹

The Superintendent or designee shall ensure that students who choose to breastfeed an infant after returning to school are provided reasonable accommodations. A student who is a nursing mother may take reasonable breaks during the school day to express breast milk or breastfeed an infant. The District's Title IX Coordinator, in consultation with the Building Principal, will implement reasonable accommodations for the nursing mother in a manner that minimizes disruption to the student's education.

Reasonable accommodations for breastfeeding students, include, but are not limited to:

1. Access to a private and secure room, other than a bathroom, to express breast milk or breastfeed an infant child.
2. Permission to bring onto the school campus a breast pump or other equipment used to express breast milk.
3. Access to a power source for a breast pump or any other equipment used to express breast milk.
4. Access to a place to store expressed breastmilk safely.
5. Reasonable breaks to accommodate the student's need to express breast milk or breastfeed an infant child.
6. The opportunity to make up work missed to due to the student's use of reasonable accommodations for breastfeeding.

Complaints

The District's Complaint Manager or Non-Discrimination Coordinator will process any complaints regarding reasonable accommodations for breastfeeding students in accordance with policy 2:260, *Uniform Grievance Procedure*. In those cases where a complainant appeals the Superintendent's decision to the Board, the Superintendent will inform the complainant that he or she may appeal the Board's decision to the Regional Superintendent and, thereafter, to the State Superintendent, in accordance with 23 Ill.Admin.Code §200.40.

LEGAL REF.: 34 C.F.R. §106.40.
 105 ILCS 5/10-20.60.

The footnotes should be removed before the material is used.

¹ This procedure is appropriate for inclusion in a student handbook. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook. Consult with the board attorney for advice regarding what accommodations a school may have to provide to breastfeeding students at off-campus extracurricular activities, such as field trips or recreational trips. There is currently a lack of case law guidance in this area. Protections in the School Code are limited to reasonable accommodations "on a school campus." 105 ILCS 5/10-20.60. However, Title IX regulations generally prohibit fund recipients from applying any rule concerning a student's parental status which treats students differently on the basis of sex. 34 C.F.R. §106.40.

Students

Student and Family Privacy Rights ¹

Surveys ²

All surveys requesting personal information from students, as well as any other instrument used to collect personal information from students, must advance or relate to the District's educational objectives as identified in policy 6:10, *Educational Philosophy and Objectives*, or assist students' career choices. This applies to all surveys, regardless of whether the student answering the questions can be identified or who created the survey.

Surveys Created by a Third Party ³

Before a school official or staff member administers or distributes a survey or evaluation created by a third party to a student, the student's parent(s)/guardian(s) may inspect the survey or evaluation, upon their request and within a reasonable time of their request.

This section applies to every survey: (1) that is created by a person or entity other than a District official, staff member, or student, (2) regardless of whether the student answering the questions can be identified, and (3) regardless of the subject matter of the questions.

Surveys Requesting Personal Information ⁴

School officials and staff members shall not request, nor disclose, the identity of any student who completes any survey or evaluation (created by any person or entity, including the District) containing one or more of the following items:

1. Political affiliations or beliefs of the student or the student's parent/guardian.

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 requires this subject matter be covered by policy. State or federal law controls this policy's content. The Protection of Pupil Rights Act (PPRA) requires any school district, "that receives funds under any applicable program [to] develop and adopt policies, in consultation with parents, regarding [statutory privacy rights]." 20 U.S.C. §1232h(c)(1). *Any applicable program* generally refers to any federal program administered by the U.S. Dept. of Education. 20 U.S.C. §1221(c). *Consultation with parents* is not defined; boards are advised, at minimum, to publicize the issue and request public comment during the policy's adoption.

² This paragraph is not dictated by law. It, however, contains the principles to guide staff and should be carefully considered and re-crafted by each board. Note that sample policy 6:10, *Educational Philosophy and Objectives*, is very broad and will thus justify surveys covering many subjects. However, it would prohibit the collection of information for marketing or selling (see ¶13 of this policy); delete reference if the board wants the option of selling personal information that is collected from students, such as in the following:

A survey requesting personal information from students, as well as any other instrument used to collect personal information from students, must have a business, educational, or marketing justification.

Another alternative is to strictly restrict the subjects on which students may be surveyed, as in the following:

All surveys requesting information from students, as well as any other instrument used to collect personal information from students, must be for the purpose of monitoring the quality of the District's educational programs or assisting students' career choices.

³ Required by 20 U.S.C. §§1232h(c)(1)(A)(i) and 1232h(c)(2)(A)(ii).

⁴ Required by 20 U.S.C. §1232h(c)(1)(B). Consult the board attorney to review the survey or questions before administering it. Given the current political climate, attorneys in the field are voicing concern about the increase in schools and staff requesting inappropriate information from a student, e.g., the number of people and/or families living in his or her home and/or whether firearms are present in the student's home.

2. Mental or psychological problems of the student or the student's family.
3. Behavior or attitudes about sex.
4. Illegal, anti-social, self-incriminating, or demeaning behavior.
5. Critical appraisals of other individuals with whom students have close family relationships.
6. Legally recognized privileged or analogous relationships, such as those with lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or the student's parent/guardian.
8. Income other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.

The student's parent(s)/guardian(s) may:

1. Inspect the survey or evaluation upon, and within a reasonable time of, their request,⁵ and/or
2. Refuse to allow their child to participate in the activity described above.⁶ The school shall not penalize any student whose parent(s)/guardian(s) exercised this option.

Instructional Material ⁷

A student's parent(s)/guardian(s) may inspect, upon their request, any instructional material used as part of their child's educational curriculum within a reasonable time of their request.

The term "instructional material" means instructional content that is provided to a student, regardless of its format, printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or academic assessments.⁸

Physical Exams or Screenings ⁹

No school official or staff member shall subject a student to a non-emergency, invasive physical examination or screening as a condition of school attendance. The term *invasive physical examination* means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.

The above paragraph does not apply to any physical examination or screening that:

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⁵ 20 U.S.C. §1232h(c)(1)(C)(i).

⁶ 20 U.S.C. §1232h(c)(2)(A)(ii).

⁷ Required by 20 U.S.C. §1232h(c)(1)(C)(i).

⁸ 20 U.S.C. §1232h(c)(6)(A).

⁹ The PPRA states that student's parent(s)/guardian(s) may refuse to allow the student to participate in "non-emergency, invasive physical examination or screening." 20 U.S.C. §1232h(c)(2)(A)(ii). This does not necessarily mean, however, that schools have authority to conduct invasive physical examinations or screenings of students. In order to avoid misunderstandings, the sample policy prohibits physical examinations and screenings of students as those terms are defined in the policy (and federal law).

A board that wants to retain this option must strike the first sentence and replace it with the following:

A student's parent(s)/guardian(s) may refuse to allow the student to participate in any non-emergency, invasive physical examination or screening that is: (a) required as a condition of attendance, (b) administered by the school and scheduled by the school in advance; and (c) not necessary to protect the immediate health and safety of the student, or of other students.

1. Is permitted or required by an applicable State law, including physical examinations or screenings that are permitted without parental notification. ¹⁰
2. Is administered to a student in accordance with the Individuals with Disabilities Education Act (20 U.S.C. §1400 *et seq.*). ¹¹
3. Is administered pursuant to the District's extracurricular drug and alcohol testing program (see policy 7:240, *Conduct Code for Participants in Extracurricular Activities*). ¹²
4. Is otherwise authorized by Board policy.

Prohibition on Selling or Marketing Students' Personal Information ¹³

No school official or staff member shall market or sell personal information concerning students (or otherwise provide that information to others for that purpose). The term *personal information* means individually identifiable information including: (1) a student or parent's first and last name, (2) a home or other physical address (including street name and the name of the city or town), (3) a telephone number, (4) a Social Security identification number or (5) driver's license number or State identification card. ¹⁴

Unless otherwise prohibited by law, the above paragraph does not apply: (1) if the student's parent(s)/guardian(s) have consented; or (2) to the collection, disclosure or, use of personal information collected from students for the exclusive purpose of developing, evaluating or providing educational products or services for, or to, students or educational institutions, such as the following: ¹⁵

1. College or other postsecondary education recruitment, or military recruitment.
2. Book clubs, magazines, and programs providing access to low-cost literary products.
3. Curriculum and instructional materials used by elementary schools and secondary schools.
4. Tests and assessments to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the

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¹⁰ 20 U.S.C. §1232h(c)(4)(B)(ii).

¹¹ 20 U.S.C. §1232h(c)(5)(A)(ii).

¹² Delete if the board has not adopted a drug and alcohol testing program for extracurricular participants in 7:240, *Conduct Code for Participants in Extracurricular Activities*. Also delete reference to 7:240, *Conduct Code for Participants in Extracurricular Activities* in this policy's cross references.

¹³ The Children's Privacy Protection and Parental Empowerment Act (CPPPEA), 325 ILCS 17/, prohibits the sale of *personal information* concerning a child under the age of 16, with a few exceptions, unless the parent(s)/guardian(s) have consented. Federal law is similar but not identical. Compare 20 U.S.C. §1232h(c)(1)(E). In order to effectuate both laws, the sample policy prohibits the sale or marketing of *personal information* unless the parents/guardians have consented.

Compare *personal information* under the PPRA and CPPPEA with *covered information* under the Student Online Personal Protection Act (SOPPA) (105 ILCS 85/), which districts are always prohibited from selling, renting, leasing, or trading, 105 ILCS 85/26. *Covered information* is broadly defined as personally identifiable information of students (or linked to students) that is shared with an *operator* of a website, online service or application that is used primarily for K-12 purposes and is designed and marketed for K-12 purposes. Therefore, in cases where the *covered information* is collected, disclosed, or used that also meets the definition of *personal information* under this policy, the PPRA and CPPPEA exceptions to the prohibition on selling students' personal information may not be available. Consult the board attorney for further guidance in these situations, and see sample policy 7:345, *Use of Educational Technologies; Student Data Privacy and Security*, for more information about SOPPA requirements.

¹⁴ 20 U.S.C. §1232h(c)(6)(E); CPPPEA, 325 ILCS 17/. See f/n 7 in 7:340, *Student Records*, for a discussion about managing FOIA requests for items (1)-(3) under *personal information* in this paragraph.

¹⁵ 20 U.S.C. §1232h(c)(4)(A); 325 ILCS 17/10.

purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments.

5. The sale by students of products or services to raise funds for school-related or education-related activities.
6. Student recognition programs.

Under no circumstances may a school official or staff member provide a student's *personal information* to a business organization or financial institution that issues credit or debit cards. ¹⁶

Notification of Rights and Procedures ¹⁷

The Superintendent or designee shall notify students' parents/guardians of:

1. This policy as well as its availability upon request from the general administration office.
2. How to opt their child out of participation in activities as provided in this policy.
3. The approximate dates during the school year when a survey requesting personal information, as described above, is scheduled or expected to be scheduled. ¹⁸
4. How to request access to any survey or other material described in this policy.

This notification shall be given to parents/guardians at least annually, at the beginning of the school year, and within a reasonable period after any substantive change in this policy.

Transfer of Rights

The rights provided to parents/guardians in this policy transfer to the student when the student turns 18 years old, or is an emancipated minor. ¹⁹

LEGAL REF.: 20 U.S.C. §1232h, Protection of Pupil Rights Act.
105 ILCS 5/10-20.38.
325 ILCS 17/, Children's Privacy Protection and Parental Empowerment Act.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 6:210 (Instructional Materials), 6:260 (Complaints About Curriculum, Instructional Materials, and Programs), 7:130 (Student Rights and Responsibilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:300 (Extracurricular Athletics)

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¹⁶ 105 ILCS 5/10-20.38.

¹⁷ The details in this section are specified in and required by 20 U.S.C. §1232h(c)(2). This information should be in the student handbook.

¹⁸ If the board chose to keep the option of marketing personal information received from students and/or conducting physical exams, add the following to this list as appropriate: "collection of personal information from students for marketing and physical examinations or screenings."

¹⁹ 20 U.S.C. §1232h(c)(5)(B).