

DRAFT UPDATE – REWRITTEN

2:125 - BOE

Board of Education

Board Member Compensation; Expenses¹

Board Member Compensation Prohibited²

Board of Education members provide volunteer service to the community and may not receive compensation for services, except that a Board member serving as the Board Secretary may be paid an amount up to the statutory limit if the Board so provides.

Roll Call Vote³

All Board member expense requests for travel, meals, and/or lodging must be approved by roll call vote at an open meeting of the Board.

Regulation of School District Expenses⁴

The Board regulates the reimbursement of all travel, meal, and lodging expenses in the District by resolution.⁵ No later than approval of the annual budget and when necessary,⁶ the Superintendent will

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

¹ State law controls this policy's content (105 ILCS 5/10-9, 5/10-10 and 5/22-1 (no compensation allowed, conflicts of interest prohibited); 105 ILCS 5/10-22.32 (expense advancements); and the Local Government Travel Expense Control Act (ECA) 50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17 (regulation of travel expenses)). The deadline for implementation of this policy under the ECA is 7-1-17, but as a practical matter, see the third paragraph of f/n 3, below.

² The legal limit for board secretary compensation is \$500 (105 ILCS 5/10-14).

³ 50 ILCS 150/15, added by P.A. 99-604, eff. 1-1-17. 105 ILCS 5/10-7 also states, "[o]n all questions involving the expenditure of money, the yeas and nays shall be taken and entered on the records of the proceedings of the board," i.e., a roll call vote.

Although the School Code has always required a roll call vote on public expenditures, on and after 60 days after the effective date of the ECA, a roll call vote will also be required for any:

1. Officer or employee of the board that exceeds the *maximum allowable reimbursement amount* (MARA) set by the board in its resolution to regulate expenses, and
2. Board member (50 ILCS 150/15, added by P.A. 99-604, eff. 1-1-17).

A majority of school law firms agree that the "on or after 60 days" date discussed in the paragraph above is 3-2-17. Some school law firms will use the date 3-1-17. There is also a policy-component deadline "[o]n and after 180 days after the effective date of [the ECA]." That date is 6-30-17. Many school law firms opine that, as a practical matter, boards should complete both the MARA and policy requirements of the ECA by late Feb. 2017 and no later than 3-1-17. Consult the board attorney about these dates. See f/n 13, below for more discussion about amending or adopting another resolution when expenses exceed the MARA required by the ECA.

⁴ 50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17 requires boards to regulate the reimbursement of expenses by *resolution or ordinance*. Unlike like the powers granted by the Ill. General Assembly to municipalities to pass ordinances, school boards govern by rules referred to as *policies* (105 ILCS 5/10-20.5). Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board (105 ILCS 5/10-20). Therefore, to effectuate the intent of the ECA's requirement to *regulate* expenses with an ordinance or resolution and stay within the confines of the School Code and best practice (minimize liability while aligning with the IASB "Foundational Principles of Effective Governance"), the language in this subhead:

1. Retains with the board its duty to *regulate* expenses through policy with a reference to a resolution that will define and set the types of allowable expenses in the district through the adoption of board policies 2:125, *Board Member Compensation; Expenses* and 5:60, *Expenses* (105 ILCS 5/10-20)(see f/n 5, below);
2. Delegates to the superintendent the duty to recommend an appropriate MARA to the board for adoption in its resolution to regulate expenses (see f/n 7, below).

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Commented [APowell1]:

This policy implements the Local Government Travel Expense Control Act, 50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17.

The footnote material is provided here for your information; once this policy has been adopted, the footnotes and copyright information will be removed.

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Commented [APowell2]:

The introduction provides information to the community that board members are public servants, and they do not receive *perks or compensation*.

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Commented [APowell3]:

50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17 allows boards to determine this timeline locally.

Other options for the timing of when boards should set the MARA include:

- OPTION 1:** Delete ~~No later than approval of the annual budget~~ and replace it with "At the start of each fiscal year"
OPTION 2: Delete ~~No later than approval of the annual budget~~ and replace it with "At the start of each school year"
OPTION 3: Delete ~~No later than approval of the annual budget~~ and replace it with "At the start of each calendar year" or
OPTION 4: Delete "No later than approval of the annual budget" and replace it with "When presenting the proposed budget".

Consider consulting the board's auditors to assist with this decision.

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recommend a maximum allowable reimbursement amount for expenses to be included in the resolution.⁷ The recommended amount should be based upon the District’s budget and other financial considerations.⁸

Money shall not be advanced or reimbursed, or purchase orders issued for: (1) the expenses of any person except the Board member,⁹ (2) anyone’s personal expenses,¹⁰ or (3) entertainment expenses.¹¹ Entertainment includes, but is not limited to, shows, amusements, theaters, circuses, sporting events,

⁵ Id. For a sample resolution, see 2:125-E3, *Resolution to Regulate Expense Reimbursements*. Consult the board attorney about how often the board should adopt or revisit its resolution (see f/ns 6 and 8, below). For discussion about setting an annual time of year to adopt the resolution, see f/n 6, below.

⁶ 50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17 allows boards to determine this timeline locally.

While the ECA does not require boards to adopt an *annual* resolution to regulate expenses, an annual review provides a way for the board to monitor this policy’s implementation and its duties under the ECA and policy 2:240, *Board Policy Development*.

This sample policy uses “No later than approval of the annual budget” to align with 105 ILCS 5/17-1 (annual budget adoption within the first quarter of each fiscal year). The words *and when necessary* allow for flexibility in situations discussed in f/n 13, below (*emergency and/or an extraordinary circumstance*).

Consider consulting the board’s auditors to assist with this decision. Other options for the timing of when boards should set the MARA include:

1. Deleting ~~No later than approval of the annual budget~~ and replacing it with “At the start of each fiscal year”
2. Deleting ~~No later than approval of the annual budget~~ and replacing it with “At the start of each school year”
3. Deleting ~~No later than approval of the annual budget~~ and replacing it with “At the start of each calendar year” or
4. Deleting “~~No later than approval of the annual budget~~” and replacing it with “When presenting the proposed budget”.

⁷ For practical purposes, this duty is delegated to the superintendent because:

1. The School Code:
 - a. Allows the board to delegate duties to the superintendent (105 ILCS 5/10-16.7), and
 - b. Assigns to the superintendent the duty to make recommendations to the board concerning the budget (105 ILCS 5/10-21.4); and
2. The MARA should be based upon a district’s financial resources and other considerations important to the local district.

⁸ The ECA does not define MARA or how to determine it (see the first sentence of f/n 6, above). The board and superintendent should have a conversation that addresses at minimum the following topics:

1. Should the superintendent use and refer to line items from the current budget?
2. Would the board set per diems or set a very large number for the board and/or all of the district employees – both have their advantages and disadvantages.
3. Should the board categorize MARA by activity?
4. Will it be categorized by individual responsibilities to the district or job titles/classes?
5. Should there be an amount category for each type of travel: airfare, train, automobile, taxi, etc.?
6. Will there be a special category for recurring and/or required training opportunities for teachers and board members?

These choices will depend upon many factors, including the budget, perhaps an auditor’s recommendation, the community’s preferences, and advice from the board attorney.

Amend the language throughout this subhead and in the fourth WHEREAS paragraph in 2:125-E3, *Resolution to Regulate Expense Reimbursements* to reflect local preferences. Consider that inserting the actual MARA into the policy would likely require more formal continual policy updates as opposed to amending the resolution if a board needs to increase its MARA for any reason. For example, see the discussion in f/n 13, below.

⁹ 105 ILCS 5/10-22.32. The final paragraph of this law prohibits money for expenses from being advanced or reimbursed to any person other than a board member or employee of the district.

¹⁰ Optional. *Personal expenses* are not defined in 50 ILCS 150/25, added by P.A. 99-604, eff. 1-1-17 or 105 ILCS 5/10-22.32. Consult the board attorney about this term and delete it only at the direction of the board attorney. Excluding personal expenses from advancements, reimbursements, and purchase orders is a generally-accepted best practice. The practice also aligns well with the State’s widely-accepted transparency movement. Reimbursing personal expenses is also a magnet for the media.

¹¹ 50 ILCS 150/25, added by P.A. 99-604, eff. 1-1-17.

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or any other place of public or private entertainment or amusement, unless the entertainment is ancillary to the purpose of the program or event.¹²

Exceeding the Maximum Allowable Reimbursement Amount(s)

All requests for expense advancements, reimbursements, and/or purchase orders that exceed the maximum allowable reimbursement amount set by the Board may only be approved by it when:

1. The Board’s resolution to regulate expenses allows for such approval;
2. An emergency or other extraordinary circumstance exists; and
3. The request is approved by a roll call vote at an open Board meeting. ¹³

Advancements

The Board may advance to its members actual and necessary expenses to be incurred while attending:¹⁴

1. Meetings sponsored by the Illinois State Board of Education or by the Regional Superintendent of Schools;¹⁵
2. County or regional meetings and the annual meeting sponsored by any school board association complying with Article 23 of the School Code; and
3. Meetings sponsored by a national organization in the field of public school education.

Expense advancement requests must be submitted to the Superintendent or designee on the Board’s standardized estimated expense approval form. After spending expense advancements, Board members must use the Board’s standardized expense reimbursement form and submit to the Superintendent: (a) the itemized, signed advancement voucher that was issued, and (b) the amount of actual expenses by attaching receipts. A Board member must return to the District any portion of an

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¹² *Id.*

¹³ 50 ILCS 150/10 and 15, added by P.A. 99-604, eff. 1-1-17. A board may need to revisit its resolution to regulate expenses more often than annually if (a) an expense reimbursement amount exceeds the MARA set in the board’s resolution, and (b) an *emergency* or an *extraordinary circumstance* does not exist. Consult the board attorney in these circumstances to determine whether the board may need to revisit and amend its resolution to increase the MARA before approving the expenses exceeding it.

Emergency or an *extraordinary circumstance* is not defined by the ECA, but these terms are meant to allow boards flexibility when expenses exceed the MARA. Yet approving expense reimbursement requests that exceed the MARA as *emergencies* or *extraordinary circumstances* when the board or superintendent “did not plan well” or “an organization’s conference fees went up more than expected this year after the board adopted its resolution,” may open the board to public relations and other legal challenges. See *Laukhuf v. Board of Education*, 2003 WL 23936148 (Ill.Cir. 2003)(addressing what constitutes an *emergency* in the context of the Open Meetings Act, which similar to the ECA, also does not define the term, and holding an emergency meeting to cure a situation that a school board created itself is not an emergency within the confines of OMA).

While the ECA does not provide for specific legal penalties for the wrongful approval of expenses, it is not clear whether a court may find in circumstances of poor MARA planning, that an *emergency* or *extraordinary circumstance* under the ECA did not exist and grant relief requested by a challenger as allowed under State law.

¹⁴ 105 ILCS 5/10-22.32 authorizes advancements for the listed items. This advancement language pre-dates the ECA and is narrower than the ECA. A reasonable interpretation is that the MARA required in the ECA would apply to any advancement amount. This policy seeks to reconcile and highlight the differences between the School Code and the ECA requirements by separating School Code advancements into a separate subhead from ECA reimbursements (estimated and actual). For more distinctions between these laws and further discussion, see *t/n* 20, below.

¹⁵ Use this alternative for districts in suburban Cook County: replace “Regional Superintendent of Schools” with “appropriate Intermediate Service Center.” The Ill. Gen. Assembly abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.

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The Ill. Gen. Assembly abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.

OPTION: Use this alternative for districts in suburban Cook County: replace “Regional Superintendent of Schools” with “appropriate Intermediate Service Center.”

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expense advancement not used.¹⁶ If an expense advancement is not requested, expense reimbursements may be issued by the Board to its members for the activities listed in numbers one through three, above, along with registration fees or tuition for a course(s) that allowed compliance with the mandatory trainings described in policy 2:120, *Board Member Development* and other professional development opportunities that are encouraged by the School Code (see the **Reimbursements and Purchase Orders** subhead, below).¹⁷ Expense advancements and vouchers shall be presented to the Board in its regular bill process.

Reimbursements and Purchase Orders

Expense reimbursement is not guaranteed and, when possible, Board members should seek pre-approval of expenses¹⁸ by providing an estimation of expenses on the Board's standardized estimated expense approval form, except in situations when the expense is diminutive. When pre-approval is not sought, Board members must seek reimbursement on the Board's standardized expense reimbursement form. Expense reimbursements and purchase orders shall be presented to the Board in its regular bill process.

Credit and Procurement Cards¹⁹

Credit and procurement cards shall not be issued to Board members.

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OPTION: A board may expand this provision's scope by amending and adding to the sentence as follows:
"~~and~~ other professional development opportunities that are encouraged by the School Code, and other training provided by one of the entities described in the above list."

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¹⁶ 105 ILCS 5/10-22.32 requires the return of excess advancements that are issued.

¹⁷ Boards have this power under 105 ILCS 5/10-20; this statute specifies that the grant of powers to school boards is not exclusive and that school boards may exercise other powers that are not inconsistent with duties. A board may expand this provision's scope by amending and adding to the sentence as follows:

"~~and~~ other professional development opportunities that are encouraged by the School Code, and other training provided by one of the entities described in the above list."

See also *f/n* 8 in policy 2:120, *Board Member Development* for an example of a board member professional development opportunity that is encouraged by the School Code.

¹⁸ Optional. Consult the board attorney to determine whether a pre-approval process is appropriate for the district. Neither 105 ILCS 5/10-22.32 (expense advancements) nor 50 ILCS 150/ (expense reimbursements and estimates) address expense *pre-approvals*. 50 ILCS 150/20 states: "an *estimate* if expenses have not been incurred ..." or "a *receipt* ..." if the expenses have already been incurred," suggesting no pre-approval is necessary. However, pre-approval is a best practice, and a board member who incurs expenses without pre-approval may run the risk that his or her expenses will not be approved. On the other hand, submitting estimated expenses for approval begs a pre-approval process, and some attorneys may read the law to require pre-approval of expenses. The pre-approval process also provides school officials with better information for financial planning.

Consult the board attorney to determine whether a pre-approval process is appropriate for the district. If it is required, ensure that 2:125-E3, *Resolution to Regulate Expense Reimbursements* reflects the district's specific pre-approval requirements. For an example of a standardized *estimated* expense form that could be used as a form of pre-approval, see 2:125-E2, *Board Member Estimated Expense Approval Form*. The form provides three methods for board members to submit estimated expenses: providing estimated expenses (50 ILCS 150/), expense advancements for the specific activities (105 ILCS 5/10-22.32), or a purchase order.

¹⁹ Optional. Consult the board attorney about issuing credit and procurement cards to board members. See *f/n* 1 of policy 4:55, *Use of Credit and Procurement Cards*.

If in consultation with the board attorney credit and procurement cards will be issued to board members, delete "~~Credit and procurement cards shall not be issued to Board members~~" and insert "Credit and procurement card usage is governed by policy 4:55, *Use of Credit and Procurement Cards*."

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Standardized Expense Form(s) Required ²⁰

All requests for expense advancement, reimbursement, and/or purchase orders in the District must be submitted on the appropriate itemized, signed standardized form(s). The form(s) must show the following information:

1. The amount of the estimated or actual expense, with attached receipts for actual incurred expenses.
2. The name and office of the Board member who is requesting the expense advancement or reimbursement. Receipts from group functions must include the names, offices, and job titles of all participants. ²¹
3. The date(s) of the official business on which the expense advancement or reimbursement will be or was expended.
4. The nature of the official business conducted when the expense advancement or reimbursement will be or was expended.

Types of Official Business for Expense Advancements, Reimbursements, and Purchase Orders

1. Registration. When possible, registration fees will be paid by the District in advance.
2. Travel. The least expensive method of travel will be used, providing that no hardship will be caused to the Board member. Board members will be reimbursed for:
 - a. Air travel at the coach or economy class commercial airline rate. First class or business class air travel will be reimbursed only if emergency circumstances warrant. The emergency circumstances must be explained on the expense form and Board approval of the additional expense is required. Copies of airline tickets must be attached to the expense form.
 - b. Rail or bus travel at actual cost. Rail or bus travel costs may not exceed the cost of coach airfare. Copies of tickets must be attached to the expense form to substantiate amounts.
 - c. Use of personal automobiles at the standard mileage rate approved by the Internal Revenue Service for income tax purposes. The reimbursement may not exceed the cost of coach airfare. Mileage for use of personal automobiles in trips to and from transportation terminals will also be reimbursed. Toll charges and parking costs will be reimbursed.
 - d. Automobile rental costs when the vehicle's use is warranted. The circumstances for such use must be explained on the expense form.
 - e. Taxis, airport limousines, or other local transportation costs.
3. Meals. Meals charged to the School District should represent mid-fare selections for the hotel/meeting facility or general area, consistent with the maximum allowable reimbursement

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²⁰ 50 ILCS 150/20, added by P.A. 99-604, eff. 1-1-17. The School Code uses the term *voucher* for expense advancements (105 ILCS 5/10-22.32). The **PRESS** materials on expenses marry the School Code's advancement voucher requirement into the ECA's requirement for a standardized estimated expense form. For an example, see 2:125-E2, *Board Member Estimated Expense Approval Form* and 5:60-E2, *Employee Estimated Expense Approval Form*. These forms provide three methods for board members or district employees to submit anticipated/estimated expenses:

1. Providing estimated expenses under 50 ILCS 150/,
2. Requesting expense advancements for the activities listed under 105 ILCS 5/10-22.32, or
3. Obtaining a purchase order (highly unlikely for anticipated board member expenses but possible).

²¹ *Id.* at (2) and (3).

Commented [APowell6]:

OPTION: Alternatively, a board could set a daily limit on meal costs, such as:
Board members will be reimbursed for meal costs and tips up to \$___per day consistent with the maximum allowable reimbursement amount(s) set by the Board.

Consult the Board's previous version of policy 2:125 to see whether a daily limit is currently in place.

But see also footnote 8 and ensure this amount is consistent with the MARA set by the board resolution.

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amount set by the Board.²² Tips are included with meal charges. Expense forms must explain the meal charges incurred. Alcoholic beverages will not be reimbursed.

4. Lodging. Board members should request conference rate or mid-fare room accommodations. A single room rate will be reimbursed. Board members should pay personal expenses at checkout. If that is impossible, deductions for the charges should be made on the expense form.
5. Miscellaneous Expenses. Board members may seek reimbursement for other expenses incurred while attending a meeting sponsored by organizations described herein by fully describing the expenses on the expense form, attaching receipts.

LEGAL REF.: 105 ILCS 5/10-20 and 5/10-22.32.
Local Government Travel Expense Control Act, 50 ILCS 150/.

CROSS REF.: 2:100 (Board Member Conflict of Interest), 2:120 (Board Member Development), 2:240 (Board Policy Development), 4:50 (Payment Procedures), 4:55 (Use of Credit and Procurement Cards), 5:60 (Expenses)

ADOPTED:

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²² Alternatively, a board could set a daily limit on meal costs, such as:
Board members will be reimbursed for meal costs and tips up to \$_____ per day consistent with the maximum allowable reimbursement amount(s) set by the Board.
But see also f/n 8, above and ensure this amount is consistent with the MARA set by the board resolution.

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