

Operational Services

Insufficient Fund Checks and Debt Recovery

Insufficient Fund Checks 1

The Superintendent or designee is responsible for collecting up to the maximum fee authorized by State law for returned checks written to the District that are not honored upon presentation to the respective bank or other depository institution for any reason. The Superintendent is authorized to contact the District's attorney whenever necessary to collect the returned check amount, fee, collection costs and expenses, and interest.

Delinquent Debt Recovery 2

The Superintendent is authorized to seek collection of delinquent debt owed the District. ~~The Superintendent or designee shall execute to the requirements fullest extent of the law, 3 To participate in any the Local Debt Recovery Program through the Illinois Office of the Comptroller (IOC), an intergovernmental agreement (IGA) between the District and the Illinois Office of the Comptroller (Comptroller) that has the purpose of debt recovery. The intergovernmental agreement IOC must be in existence. The IGA establishes the terms under which the District may request, and refer delinquent debt owed it over to the Comptroller will IOC for an offset (deduction). The IOC may execute, a an offset of the amount of a the delinquent debt owed to the District from a future payment that the State makes to an individual or entity responsible for paying the delinquent debt.~~

~~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. 810 ILCS 5/3-806 authorizes a \$25.00 collection fee whenever a check is not honored upon presentation because the individual does not have an account with the bank, the individual does not have sufficient funds in his or her account, or the individual does not have sufficient credit with the bank.~~

~~This fee may be considered punitive considering several banks rarely charge this amount for an insufficient funds check. To allow more flexibility for the superintendent and his or her designees to charge the full collection fee of \$25.00, a portion thereof, or none of it, the first sentence states "up to the maximum fee." Boards choosing to allow this flexibility should discuss equal protection issues with the board attorney. As a general rule, any flexibility should be applied with uniform rules to all individuals and/or groups to avoid triggering the Constitution's Equal Protection Clause.~~

~~Boards that wish to charge the maximum fee in all circumstances should delete the words up to in the first sentence: "The Superintendent or designee is responsible for collecting up to the maximum fee authorized by State law for returned checks written to the District that are not honored upon presentation to the respective bank or other depository institution for any reason."~~

~~2 This section is optional but because the policy's title refers to debt recovery, at least the first sentence should be retained. The Ill. Office of the Comptroller (IOC) operates an Offset System for collecting debt owed to the State, political subdivisions of the State, and school districts by persons receiving payments from the State. Seeking debt recovery through an offset of a future payment the State makes to a debtor is optional. The requirements in this policy for obtaining an offset are either in statute or the Comptroller's IOC's intergovernmental agreement (IGA) (15 ILCS 405/10.05 and 10.05d, amended by P.A. 97-632). The first step to participate is to enter into the intergovernmental agreement IGA with the Comptroller's IOC's office. Contact a Local Debt Recovery Program (LDRP) manager with the Office of the Comptroller IOC to join. Program managers work one-on-one with districts. The LDRP's general number is 312/814-2488 and email is ldr@mail.ioc.state.il.us. Contact the board attorney for advice and assistance.~~

~~While this paragraph is not a prerequisite to participation in the Offset Program, it will help the board's monitoring function by identifying the Program's important components. Moreover, it serves as an element of due process by informing the public and the district's debtors that the district will collect debt through the Offset Program.~~

~~3 There methods other than the IOC's Local Debt Recovery Program to collect delinquent debts owed to the school district, i.e., small claims court, private collection agencies, etc. If the district decides it will not ever seek to enter the IOC's Local Debt Recovery Program, keep the first sentence and delete everything after it.~~

The ~~Comptroller will pay Superintendent or designee shall execute the amount deducted to requirements of the District and IGA. While executing the District will credit that amount against requirements of the balance owed to the District until the debt is paid. IGA,~~ the Superintendent or designee is responsible, without limitation, for each of the following:

1. Providing a District-wide, uniform, method of notice and due process to the individual or entity against whom a claim for delinquent debt payment (claim) is made. Written notice and an opportunity to be heard must be given to the individual or entity responsible for paying a delinquent debt before the debt claim is certified to the Comptroller IOC for offset. The notice must state the claim's amount, the reason for the amount due, the claim's date or time period, and a description of the process to challenge the claim. An individual or entity challenging a claim shall be provided an informal proceeding to refute the claim's existence, amount, or current collectability; the decision following this proceeding shall be reviewable. If a waiver of student fees is requested as a challenge to paying the claim, and the waiver of student fees is denied, an appeal of the denial of a fee waiver request shall be handled according to 4:140, *Waiver of Student Fees*. If no waiver of student fees is requested, reviews regarding payment of the claim shall be handled according to this policy before certification to the IOC for offset.
2. Certifying to the Comptroller IOC that the debt is past due and legally enforceable, and notifying the Comptroller IOC of any change in the status of an offset claim for delinquent debt.
3. Responding to requests for information from the Comptroller IOC to facilitate the prompt resolution of any protest administrative review requests received by the Comptroller IOC.

LEGAL REF.: 15 ILCS 405/10.05 and 10.05d.
810 ILCS 5/3-806.