

## School Board

### Uniform Grievance Procedure 1

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

1. Title II of the Americans with Disabilities Act <sup>2</sup>
2. Title IX of the Education Amendments of 1972
3. Section 504 of the Rehabilitation Act of 1973 <sup>3</sup>
4. Title VI of the Civil Rights Act, 42 U.S.C. §2000d *et seq.*
5. Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. §2000e *et seq.*
6. Sexual harassment (Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972) <sup>4</sup>

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

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

A grievance procedure is required by many civil rights acts and implementing regulations, including those listed. This policy consolidates all board grievance procedures into one policy, except those contained in collective bargaining agreements. See the cross references for the policies referring to uniform grievance procedures.

Employee grievance procedures are a mandatory subject of bargaining and cannot be changed without the employee exclusive representative's consent. This policy is in addition to, and not a substitute for, the employee grievance procedure contained in a collective bargaining agreement.

Attorneys disagree whether the Individuals with Disabilities Education Act (IDEA) should be included in the list of statutes that may serve as the basis of a grievance. Many believe that IDEA provides the exclusive remedy; others believe that including IDEA allows parents an opportunity to get their position before the board. Unique and specific complaint resolution mechanisms are expressly provided under IDEA, Article 14 of the School Code, and their respective implementing regulations. These mechanisms follow: (1) IDEA at 20 U.S.C. §1415 (procedural safeguards-mediation and due process); (2) IDEA regulations at 34 C.F.R. §§300.151-300.153 (state complaints), 300.506 (mediation), and 300.507 *et seq.* (due process); (3) School Code at §§14/8.02a (mediation and due process) and 14/8.02b (expedited due process); and (4) special education regulations at 23 Ill.Admin.Code §§226.560 (State complaints), 226.570 (mediation), and Subpart G (due process). A board that would like to include IDEA should consult the board attorney.

<sup>2</sup> The Americans with Disabilities Act Amendments Act (ADAAA), Pub. L. 110-325, made significant changes to the Americans with Disabilities Act's definition of disability by broadening the scope of coverage. ADAAA also overturned a series of U.S. Supreme Court decisions that interpreted the Americans with Disabilities Act of 1990 in a way that made it difficult to prove that impairments were a disability. The Equal Employment Opportunity Commission's (EEOC) regulations, 29 C.F.R. Part 1630, ~~can be found~~ at: [www.eeoc.gov/laws/types/disability\\_regulations.cfm](http://www.eeoc.gov/laws/types/disability_regulations.cfm).

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

Title II of the ADA of 1990 also includes website accessibility. Addressing website accessibility is complicated. Many entities addressing website accessibility use *Web Content Accessibility Guidelines* (WCAG) 2.0, a frequently cited accessibility standard that contains guidelines developed by a private group of accessibility experts. WCAG 2.0 is the standard the U.S. Dept. of Justice referenced in its recent Title II rulemaking; however, it is not adopted as the formal legal standard for public accommodation websites. While it is not adopted as the formal legal standard for public accommodation websites, it has been used in many consent decrees and settlement agreements. See [www.w3.org/TR/WCAG20/](http://www.w3.org/TR/WCAG20/).

<sup>3</sup> See f/n 2's discussion of website accessibility above. To avoid allegations that a district violated Section 504 of the Rehabilitation Act of 1973 and Title II of the ADA of 1990, many attorneys suggest that school districts' websites meet the WCAG 2.0 guidelines. But see the discussion in f/n 2 of policy 8:70, *Accommodating Individuals with Disabilities*.

- 6-7. Breastfeeding accommodations for students, 105 ILCS 5/10-20.60 (P.A. 100-29, final citation pending)<sup>5</sup>
- 7-8. Bullying, 105 ILCS 5/27-23.7 <sup>6</sup>
- 8-9. Misuse of funds received for services to improve educational opportunities for educationally disadvantaged or deprived children <sup>7</sup>
- 9-10. Curriculum, instructional materials, and/or programs
- 10-11. Victims' Economic Security and Safety Act, 820 ILCS 180/
- 11-12. Illinois Equal Pay Act of 2003, 820 ILCS 112/
- 12-13. Provision of services to homeless students
- 13-14. Illinois Whistleblower Act, 740 ILCS 174/ <sup>8</sup>

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

<sup>4</sup> Consult the board attorney to ensure the district's nondiscrimination coordinator and complaint managers are trained to appropriately respond to allegations of discrimination based upon bullying and/or sexual violence under Title IX's sexual harassment umbrella. ~~The U.S. Dept. of Education's guidance states that while acts of sexual violence are crimes, they may also be discrimination under Title IX. In September 2017, the U.S. Dept. of Education withdrew its sexual violence Title IX guidance issued in 2011 and 2014, which mandated procedures for processing student-on-student sexual conduct, including using a preponderance of the evidence standard for student discipline. The U.S. Dept. of Education has issued interim guidance until new rulemaking is promulgated: *O&A on Campus Sexual Misconduct* (OCR September 2017) at: [www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf?utm\\_content=&utm\\_medium=email&utm\\_name=&utm\\_source=govdelivery&utm\\_term](http://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term). Many attorneys agree these guidance documents are a *heads up* to schools to ensure appropriate responses to and training on these issues. ~~An earlier~~ The guidance document ~~s~~ also highlights appropriate responses to sexual violence under Title IX. See They are titled as follows: (1) *Dear Colleague Letter: Sexual Violence Background, Summary, and Fast Facts*, 111 LRP 23852 (OCR 04-04-11) at: [www2.ed.gov/about/offices/list/ocr/letters/colleague\\_201104.html](http://www2.ed.gov/about/offices/list/ocr/letters/colleague_201104.html), (2) *Dear Colleague Letter: Harassment and Bullying*, 55 IDELR 174 (OCR 10-26-10) at: [www2.ed.gov/about/offices/list/ocr/docs/del\\_factsheet\\_201010.html](http://www2.ed.gov/about/offices/list/ocr/docs/del_factsheet_201010.html), and (3) *Revised Sexual Harassment Guidance: Harassment of Student by School Employees, Other Students, or Third Parties*, January 2001 at: [www2.ed.gov/offices/OCR/archives/pdf/shguide.pdf](http://www2.ed.gov/offices/OCR/archives/pdf/shguide.pdf).~~

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

<sup>5</sup> 105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-29, eff. 1-1-18, requires schools to implement the Ill. sex equity grievance procedures when processing student complaints about breastfeeding accommodations. Complainants must be informed that the board's decision may be appealed to the Regional Superintendent and, thereafter, to the State Superintendent. 23 Ill.Admin.Code § 200.40. Note: Certain claims brought under Sec. 10-20.60 (final citation pending) may also be covered by the anti-discrimination protections of Title IX; consult the board attorney for further advice. Guidance from U.S. Dept. of Education on Title IX requirements for pregnant and parenting students (June 2013) is available at: [www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf](http://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf).

<sup>6</sup> All districts must have a policy on bullying 105 ILCS 5/27-23.7. See policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The inclusion of *bullying* in the list of topics that may serve as the basis of a grievance furthers the obligation to communicate this policy to students and their parents/guardians.

<sup>7</sup> Parents/guardians of educationally disadvantaged children may sue a district for misuse of funds allocated by State law for the benefit of such children. *Noyola v. Board of Educ.ation*, 688 N.E.2d 8171 Ill.2d 121 (Ill. 1997), (affirming the appellate court's conclusion in *Noyola v. Board of Educ.ation*, 671 N.E.2d 802284 Ill.App.3d 128 (Ill.App.1,1st Dist. 1996) that parents/guardians may pursue a claim to enforce the requirements of the School Code but holding that the proper action for enforcement is by means of mandamus not an implied right of action).

<sup>8</sup> The Illinois Whistleblower Act ~~(740 ILCS 174/)~~ includes school districts in the definition of employer. It protects employees from employer retaliation for disclosing information to a government or law enforcement agency. Section 15 also contains language prohibiting employers from retaliating against employees who disclose information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information reveals a violation of a State or federal law, rule or regulation. The Public Act also amends the Illinois Whistleblower Reward and Protection Act. 740 ILCS 175/. Its definition of *State* includes school districts. A strict interpretation of this language appears to allow school boards to collect civil penalties and costs against someone making a false claim. Before disciplining any employee, Boards should thoroughly investigate the ramifications of this Public Act in consultation with their attorney and liability insurance carriers.

~~14.15.~~ Misuse of genetic information (Illinois Genetic Information Privacy Act (GIPA), 410 ILCS 513/ and Titles I and II of the Genetic Information Nondiscrimination Act (GINA), 42 U.S.C. §2000ff et seq. **9**

~~15.16.~~ Employee Credit Privacy Act, 820 ILCS 70/ **10**

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

#### Right to Pursue Other Remedies Not Impaired

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

---

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

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

GINA broadly defines genetic information to include information about an individual's genetic tests, their family members, and, among other things, the manifestation of a disease or disorder in the individual or the individual's family members. Information about an individual's or family member's age or gender is excluded from genetic information. Its remedies mirror those available under a Title VII of the Civil Rights Act claim: back pay, reinstatement, attorneys' fees and compensatory and punitive damages. Retaliation against an individual who brings a claim under GINA is also prohibited. Federal regulations have been proposed and are available at: [www.eeoc.gov/policy/docs/qanda\\_geneticinfo.html](http://www.eeoc.gov/policy/docs/qanda_geneticinfo.html). An FAQ titled, *FAQs on the Genetic Information Nondiscrimination Act* at: [www.dol.gov/ebsa/faqs/faq-GINA.html](http://www.dol.gov/ebsa/faqs/faq-GINA.html). The Ill. Genetic Information Protection Act (GIPA), 410 ILCS 513/, amended by P.A. 100-396, eff. 1-1-18) also prohibits employers from making employment decisions on the basis of any employee's genetic testing information and from penalizing employees who do not want to disclose their genetic information as part of a workplace wellness program. GIPA includes the federal GINA's definition of genetic information and creates more stringent obligations on Ill. employers. While the federal GINA exempts small employers (those with less than 15 employees), Illinois' GIPA covers all employers, even those with one employee. GIPA also provides penalties for negligent and intentional mishandling of genetic information. Note that Title II of GINA does not preempt GIPA's greater protections to Illinois employees.

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

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

## Deadlines

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

## Filing a Complaint

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

For bullying and cyber-bullying, the Complaint Manager shall process and review the complaint according to Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, in addition to any response required by this policy.

## Investigation

The Complaint Manager will investigate the complaint or appoint a qualified person to undertake the investigation on his or her behalf.<sup>11</sup> The Complaint Manager shall ensure both parties have an equal opportunity to present evidence during an investigation. If the Complainant is a student under 18 years of age, the Complaint Manager will notify his or her parent(s)/guardian(s) that they may attend any investigatory meetings in which their child is involved. The complaint and identity of the Complainant will not be disclosed except: (1) as required by law or this policy, (2) as necessary to fully investigate the complaint, or (3) as authorized by the Complainant.

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

The Complaint Manager will inform, at regular intervals, the person(s) filing a complaint under this policy about the status of the investigation. Within 30 school business days of the date the complaint was filed, the Complaint Manager shall file a written report of his or her findings with the Superintendent. The Complaint Manager may request an extension of time. If a complaint of sexual harassment contains allegations involving the Superintendent, the written report shall be filed with the Board, which will make a decision in accordance with the following section of this policy. The Superintendent will keep the Board informed of all complaints.

## Decision and Appeal

Within five school business days after receiving the Complaint Manager's report, the Superintendent shall mail his or her written decision to the Complainant and the accused by first class U.S. mail as

---

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

<sup>11</sup> This policy gives complaint managers the flexibility to appoint another individual to conduct an investigation, which may be appropriate in cases where the neutrality or efficacy of the complaint manager is an issue, and/or where the district wishes to have the expertise and related attorney-client and work product privileges that an in-house or outside attorney may afford an investigation. Such alternative appointments are often made in consultation with the superintendent or other district-level administrator (except in cases involving complaints about those individuals).

well as to the Complaint Manager. All decisions shall be based upon the *preponderance of evidence* standard. <sup>12</sup>

Within 10 school business days after receiving the Superintendent's decision, the Complainant or the accused may appeal the decision to the Board by making a written request to the Complaint Manager. The Complaint Manager shall promptly forward all materials relative to the complaint and appeal to the Board. Within 30 school business days, the Board shall affirm, reverse, or amend the Superintendent's decision or direct the Superintendent to gather additional information. Within five school business days of the Board's decision, the Superintendent shall inform the Complainant and the accused of the Board's action.

This policy shall not be construed to create an independent right to a hearing before the Superintendent or Board. The failure to strictly follow the timelines in this grievance procedure shall not prejudice any party.<sup>13</sup>

#### Appointing a Nondiscrimination Coordinator and Complaint Managers <sup>14</sup>

The Superintendent shall appoint a Nondiscrimination Coordinator to manage the District's efforts to provide equal opportunity employment and educational opportunities and prohibit the harassment of employees, students, and others. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.<sup>15</sup>

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

The Superintendent shall insert into this policy and keep current the names, addresses, and telephone numbers of the Nondiscrimination Coordinator and the Complaint Managers.<sup>16</sup>

---

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

<sup>12</sup> *Preponderance of evidence* is a standard of proof in civil cases. It means "evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not." See *Black's Law Dictionary, 9th ed. 2009*.

<sup>13</sup> The Ill. sex equity regulations require districts to have "specific timelines for completion of each step and rendering of a written decision, and shall provide for final appeal of grievance decisions made at the system level to the system's governing board." 23 Ill.Admin.Code §200.40. To avoid arguments over these timelines, this sample policy provides that the failure to strictly follow the timelines does not prejudice any party. The grievance procedure is worthless if complaints are not thoroughly and promptly investigated.

<sup>14</sup> Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. OCR prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (a) a *Dear Colleague Letter on Title IX Coordinators*, (b) a *Letter to Title IX Coordinators* that provides them with more information about their role, and (c) a *Title IX Resource Guide* that includes an overview of Title IX's requirements with respect to several key issues. ~~They are listed at:~~ See [www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html](http://www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html).

While the names and contact information are required by law to be listed, they are not part of the adopted policy, and ~~they~~ do not require board action. This allows for additions and amendments to the names and contact information ~~as~~when necessary. It is important for ~~an~~ updated, ~~accurate~~ names and contact information to be inserted into this policy and regularly monitored on a regular basis.

<sup>15</sup> Best practice is that throughout the district's board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

<sup>16</sup> Publicizing the contact information for the Nondiscrimination Coordinator and Complaint Managers through personnel handbooks, student handbooks, and/or on the district's website is a best practice. The Illinois Principals

**Nondiscrimination Coordinator:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Telephone

LEGAL REF.: Age Discrimination in Employment Act, 29 U.S.C. §621 et seq.  
Americans With Disabilities Act, 42 U.S.C. §12101 et seq.  
Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. §2000e et seq.  
Equal Pay Act, 29 U.S.C. §206(d).  
Genetic Information Nondiscrimination Act, 42 U.S.C. §2000ff et seq.  
Immigration Reform and Control Act, 8 U.S.C. §1324a et seq.  
McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.  
Rehabilitation Act of 1973, 29 U.S.C. §791 et seq.  
Title VI of the Civil Rights Act, 42 U.S.C. §2000d et seq.  
Title IX of the Education Amendments, 20 U.S.C. §1681 et seq.  
105 ILCS 5/2-3.8, 5/3-10, 5/10-20.7a, 5/10-20.60 (P.A. 100-29, final citation pending), 5/10-22.5, 5/22-19, 5/24-4, 5/27-1, 5/27-23.7, and 45/1-15.  
Illinois Genetic Information Privacy Act, 410 ILCS 513/.  
Illinois Whistleblower Act, 740 ILCS 174/.  
Illinois Human Rights Act, 775 ILCS 5/.  
Victims’ Economic Security and Safety Act, 820 ILCS 180/, 56 Ill.Admin.Code Part 280.  
Equal Pay Act of 2003, 820 ILCS 112/.  
Employee Credit Privacy Act, 820 ILCS 70/.  
23 Ill.Admin.Code §§1.240 and 200.-40.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted. Association maintains a handbook service that coordinates with PRESS material. Online Model Student Handbook (MSH), at: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

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

CROSS REF.: 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 6:120 (Education of Children with Disabilities), 6:140 (Education of Homeless Children), 6:170 (Title I Programs), 6:260 (Complaints About Curriculum, Instructional Materials, and Programs), 7:10 (Equal Educational Opportunities), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 8:70 (Accommodating Individuals with Disabilities), 8:110 (Public Suggestions and Concerns)

## Operational Services

### Fiscal and Business Management<sup>1</sup>

The Superintendent is responsible for the School District's fiscal and business management.<sup>2</sup> 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.<sup>3</sup>

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*.<sup>4</sup>

### Budget Planning

The District's fiscal year is from July 1 until June 30.<sup>5</sup> The Superintendent shall present to the Board, no later than the first regular meeting in August, a tentative budget with appropriate explanation.<sup>6</sup> 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 Illinois State Board of Education's "*School District Budget Form*."<sup>7</sup> To the extent possible, the tentative budget shall be balanced as defined by the State Board of Education guidelines. The Superintendent shall complete a tentative deficit reduction plan if one is required by the State Board of Education guidelines.<sup>8</sup>

### Preliminary Adoption Procedures

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

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

---

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

<sup>1</sup> State or federal law controls this policy's content. Article 17 of the School Code controls budgeting, tax levys, and tax warrants.

<sup>2</sup> 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.

<sup>3</sup> 105 ILCS 5/10-17.

<sup>4</sup> See exhibits 6:235-AP1, E1, *Student Authorization for Access to the District's Electronic Networks*, and 6:235-AP1, E2, *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*.

<sup>5</sup> The board sets the fiscal year (105 ILCS 5/17-1) and this sentence should reflect that local decision.

<sup>6</sup> 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 14). 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."

<sup>7</sup> Required by 105 ILCS 5/17-1. The budget instructions from ISBE detail when a deficit reduction plan must be completed.

<sup>8</sup> State law requires the budget to be balanced and, if not, a three-year deficit reduction plan must be developed. ~~(105 ILCS 5/17-1)~~.

<sup>9</sup> At least one public hearing must be held before final action on the budget. ~~(105 ILCS 5/17-1)~~.

<sup>10</sup> 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)~~.



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.<sup>11</sup> 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.<sup>12</sup>

#### 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.<sup>13</sup> To the extent possible, the budget shall be balanced as defined by the State Board of Education; if not balanced, the Board will adopt a deficit reduction plan to balance the District's budget within three years according to State Board of Education requirements.<sup>14</sup>

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.<sup>15</sup>

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.<sup>16</sup>
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.<sup>17</sup>
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 State Board of Education guidelines, and other financial information to the State Board of Education according to its requirements.<sup>18</sup>

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

---

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

<sup>11</sup> 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 public places. ~~(105 ILCS 5/17-1).~~

<sup>12</sup> State law does not address what transpires during the budget hearing.

<sup>13</sup> Required by 105 ILCS 5/17-1 and 5/17-3.2.

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

<sup>15</sup> Required by 105 ILCS 5/10-7.

<sup>16</sup> Required by 105 ILCS 5/17-1.2, *only if* the district has a website. Do not add this sentence unless the district has a website.

<sup>17</sup> 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.

<sup>18</sup> Required by 105 ILCS 5/17-1.

<sup>19</sup> 105 ILCS 5/17-11 and 35 ILCS 200/18-55.

## Budget Amendments

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

## 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 loans<sup>21</sup>, interfund transfers<sup>22</sup>, transfers within funds<sup>23</sup>, and transfers from the working cash fund or abatements of it, if one exists.<sup>24</sup>

LEGAL REF.: 35 ILCS 200/18-55 et seq.  
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.  
23 Ill.Admin.Code Part 100.

CROSS REF.: 4:40 (Incurring Debt), 6:235 (Access to Electronic Networks)

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

---

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

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

<sup>21</sup> 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).

<sup>22</sup> 105 ILCS 5/17-2A contains the requirements for a permanent transfer. P.A.s 99-713 and 100-465 extended the time period during which a district may transfer money from specified funds for any purpose to July 1, 2020~~19~~.

<sup>23</sup> 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 ten percent, the board must amend the budget. ~~(105 ILCS 5/17-1).~~

<sup>24</sup> 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 184902 N.E.2d 744 (Ill.App-2nd Dist., 2009); G.I.S. Venture v. Novak, 385 Ill.Dec. 4302014 Ill. App. (2d) 130244 (2nd Dist. 9/30/2014)).~~ Abolishments (deplete all funds) of the working cash fund must still be transferred to the education fund only.

## Operational Services

### Identity Protection 1

The collection, storage, use, and disclosure of social security numbers by the School District shall be consistent with State and federal laws. The goals for managing the District’s collection, storage, use, and disclosure of social security numbers are to: 2

1. Limit all activities involving social security numbers to those circumstances that are authorized by State or federal law.
2. Protect each social security number collected or maintained by the District from unauthorized disclosure.

The Superintendent is responsible for ensuring that the District complies with the Identity Protection Act, 5 ILCS 179/. Compliance measures shall include each of the following:3\_4

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

~~1 The Identity Protection Act, 5 ILCS 179/, requires that this subject matter be covered in policy and controls its content. The Act places greater limits on the use of SSNs than federal law. The Act defines identity protection policy as “any policy created to protect social security numbers from unauthorized disclosure.” Social security number is not capitalized in the Identity Protection Act, 5 ILCS 179/5. Another State law, the Personal Information Protection Act, 815 ILCS 530/, amended by P.A. 99-503, contains mandates for government agencies and local governments and may apply to school districts. This Act contains requirements for: (1) notifying an owner of a security breach, and (2) disposing of material containing personal information (defined as the owner’s name combined with SSN, driver’s license number or State identification card number, and financial account information, including without limitation, credit or debit card numbers).~~

~~Much of a district’s collection, storage, use, and disclosure of social security numbers applies to employee records only. But limited exceptions may exist where a school district may need to ask students or their parents/guardians to provide social security numbers, and any collection and retention of student’s social security numbers must also be in accordance with this policy.~~

~~Consult the board attorney before adoption of this policy. Districts may choose to provide or implement more protections than the statutory requirements outlined in this sample policy. Technology and best practices are constantly changing. While the laws that apply to this policy govern current management of sensitive information, best practices may outpace the law’s ability to keep up. See also f/n19 to sample policy 2:250, Access to District Public Records, detailing the preservation requirements of the Local Records Act (50 ILCS 205/3-7), the Family Educational Rights and Privacy Act (20 U.S.C. §1232g), and the Ill. School Student Records Act (105 ILCS 10/), and litigation holds or document preservation requirements pursuant to Federal Rules of Civil Procedure (Rules 16 and 26).~~

~~The Identity Protection Act (IPA, 5 ILCS 179/) requires that this subject matter be covered in policy and controls its content. The Act places greater limits on the use of social security numbers (SSNs) than federal law. The IPA defines identity-protection policy as “any policy created to protect social security numbers from unauthorized disclosure.” Social security number is not capitalized in the IPA, 5 ILCS 179/5. Much of a district’s collection, storage, use, and disclosure of SSNs applies to employee records only. But limited exceptions may exist where a school district may need to ask students or their parents/guardians to provide SSNs, and any collection and retention of students’ SSNs must also be in accordance with this policy.~~

~~Another State law, the Personal Information Protection Act (PIPA, 815 ILCS 530/ amended by P.A. 99-503) contains mandates for government agencies and local governments. PIPA does not specifically identify school districts as local governments to which the law applies. Consequently, PIPA’s application to school districts is questionable because the Ill. Constitution, Article VII, Section 1, expressly exempts school districts from units of local government. PIPA contains requirements for: (1) notifying an owner of a security breach, and (2) disposing of material containing personal information (defined as the owner’s name combined with SSN, driver’s license number or State identification card number, and financial account information, including without limitation, credit or debit card numbers). Consult with the board attorney for further advice on the application of PIPA. See f/n 4, below for more information about options to include PIPA requirements in this sample policy.~~

2 The list of goals is optional; it may be deleted, augmented, or otherwise amended.

1. All employees having access to social security numbers in the course of performing their duties shall be trained to protect the confidentiality of social security numbers. Training should include instructions on the proper handling of information containing social security numbers from the time of collection through the destruction of the information.
2. Only employees who are required to use or handle information or documents that contain social security numbers shall have access to such information or documents.
3. Social security numbers requested from an individual shall be provided in a manner that makes the social security number easily redacted if the record is required to be released as part of a public records request.
4. When collecting a social security number or upon request by an individual, a statement of the purpose(s) for which the District is collecting and using the social security number shall be provided.~~5~~ The stated reason for collection of the social security number must be relevant to the documented purpose.~~6~~
- ~~5. Notification to an individual as required by 815 ILCS 530/12 whenever his or her personal information was acquired by an unauthorized person; *personal information* means either:
 
  - a. ~~An individual's first name or first initial and last name in combination with any one or more of his or her (i) social security number, (ii) driver's license number or State identification card number, (iii) financial account information (with any required security codes or passwords), (iv) medical information, (v) health insurance information, and/or (vi) unique biometric data or other unique physical or digital representation of biometric~~~~

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

~~3~~ The Identity Protection Act, ~~5 ILCS 179/35(a)~~IPA requires items #1-4 to be covered in a policy. ~~5 ILCS 179/3.5(a)~~.

~~4~~ For boards that want to include PIPA mandates in this Policy, insert the following option after the IPA items #1-4, or if the board includes items # 5 and 6 (discussed in f/n 6, below), after items #1-6, and add "815 ILCS 530/, Personal Information Protection Act" to the Legal References:

~~"The Superintendent is also responsible for ensuring the District complies with the Personal Information Protection Act, 815 ILCS 530/. Compliance measures shall include each of the following:~~

- ~~1. Written or electronic notification to an individual as required by 815 ILCS 530/12 whenever his or her personal information was acquired by an unauthorized person; *personal information* means either:
  - ~~a. An individual's first name or first initial and last name in combination with any one or more of his or her (i) social security number, (ii) driver's license number or State identification card number, (iii) financial account information (with any required security codes or passwords), (iv) medical information, (v) health insurance information, and/or (vi) unique biometric data or other unique physical or digital representation of biometric data, when either the name or the data elements are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the name or data elements have been acquired through the breach of security; or~~
  - ~~b. An individual's username or email address, in combination with a password or security question and answer that would permit access to an online account, when either the username or email address or password or security question and answer are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the data elements have been obtained through the breach of security.~~~~
- ~~2. Disposal of materials containing personal information in a manner that renders the personal information unreadable, unusable, and undecipherable; *personal information* has the meaning stated in #1, above.~~
- ~~3. Notification, no later than 45 days of the discovery of a security breach, to the Illinois Attorney General:
  - ~~a. If the District suffers a breach of more than 250 Illinois residents; or~~
  - ~~b. When the District provides notice as required in #1, above.~~~~

~~5~~ See 4:15 E2, ~~Exhibit Statement of Purpose for Collection of Social Security Numbers.~~

~~6~~ See 4:15-E2, ~~Statement of Purpose for Collection of Social Security Numbers.~~

- ~~data, when either the name or the data elements are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the name or data elements have been acquired through the breach of security; or~~
- ~~b. An individual's username or email address, in combination with a password or security question and answer that would permit access to an online account, when either the username or email address or password or security question and answer are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the data elements have been obtained through the breach of security.<sup>7</sup>~~
- ~~6. Disposal of materials containing personal information in a manner that renders the personal information unreadable, unusable, and undecipherable; *personal information* has the meaning stated in #5, above.~~
- ~~7. Notification, within 45 days of the discovery of a security breach, to the Illinois Attorney General:~~
- ~~a. If the District suffers a breach of more than 250 Illinois residents; or~~
- ~~b. When the District provides notice as required in #5, above.<sup>8</sup>~~
- ~~8.5. All employees must be advised of this policy's existence, and a copy of the policy must be made available to each employee. The policy must also be made available to any member of the public, upon request.<sup>9</sup>~~
6. If this policy is amended, employees will be advised of the existence of the amended policy and a copy of the amended policy will be made available to each employee.<sup>10</sup>

No District employee shall collect, store, use, or disclose an individual's social security number unless specifically authorized by the Superintendent.<sup>11</sup> This policy shall not be interpreted as a guarantee of the confidentiality of social security numbers and/or other personal information. The District will use best efforts to comply with this policy, but this policy should not be construed to convey any rights to protection of information not otherwise afforded by law.

---

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

~~<sup>7</sup> Items #5 and #6 are not required to be in policy. They are mandates contained in the Personal Information Protection Act; see the second paragraph of f/n 1. They are included in the sample policy because: (1) they are consistent with public policy, and (2) if the Act applies to school districts, so will its section allowing the Attorney General to fine any person up to \$100 for each violation of the disposal requirements for materials containing personal information. 815 ILCS 530/40, amended by P.A. 99-503.~~

~~<sup>8</sup> 815 ILCS 530/12, (e), amended by P.A. 99-503. Notification sooner is preferred, if it can be accomplished.~~

~~<sup>9</sup> Item #8 is Items #5 and #6 are not required to be in policy but districts are required to perform the described action ~~((s). 5 ILCS 179/35(b))~~. These compliance measures are covered in ~~administrative procedure~~ 4:15-AP, *Protecting the Privacy of Social Security Numbers*.~~

~~<sup>10</sup> Optional. See f/n 6 above.~~

~~<sup>11</sup> This sentence is optional. Its intent is to inform employees of the need to have proper authority before collecting, storing, using, or disclosing SSNs. A board may attach a sanction to the paragraph by adding the following option:~~

~~An employee who has substantially breached the confidentiality of ~~SSNs~~ social security numbers may be subject to disciplinary action or sanctions up to and including dismissal in accordance with District policy and procedures.~~

LEGAL REF.: 5 ILCS 179/, Identity Protection Act.  
50 ILCS 205/3, Local Records Act.  
105 ILCS 10/, Illinois School Student Records Act.  
~~815 ILCS 530/, Personal Information Protection Act.~~

CROSS REF: 2:250 (Access to District Public Records), 5:150 (Personnel Records), 7:340  
(Student Records)

## Operational Services

### Accounting and Audits 1

The School District's accounting and audit services shall comply with the *Requirements for Accounting, Budgeting, Financial Reporting, and Auditing*, as adopted by the Illinois State Board of Education (ISBE), State and federal laws and regulations, and generally accepted accounting principles. Determination of liabilities and assets, prioritization of expenditures of governmental funds, and provisions for accounting disclosures shall be made in accordance with government accounting standards as directed by the auditor designated by the Board. The Superintendent, in addition to other assigned financial responsibilities, shall report monthly on the District's financial performance, both income and expense, in relation to the financial plan represented in the budget.

### Annual Audit 2

At the close of each fiscal year, the Superintendent shall arrange an audit of the District funds, accounts, statements, and other financial matters. The audit shall be performed by an independent certified public accountant designated by the Board and be conducted in conformance with prescribed standards and legal requirements. A complete and detailed written audit report shall be provided to each Board member and to the Superintendent. The Superintendent shall annually, on or before October 15, submit an original and one copy of the audit to the Regional Superintendent of Schools.

### Annual Financial Report 3

The Superintendent or designee shall annually prepare and submit the Annual Financial Report on a timely basis using the form adopted by the ~~Illinois State Board of Education~~ ISBE. The Superintendent shall review and discuss the Annual Financial Report with the Board before it is submitted.

**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. A board policy or resolution is required concerning revolving funds and petty cash. (~~23 Ill.Admin.Code §100.70~~). This policy is intended to facilitate the board's fiscal oversight role. The last sentence of the first paragraph should be modified to align with local conditions. The *Requirements for Accounting, Budgeting, Financial Reporting, and Auditing* at 23 Ill.Admin.Code Part 100 replaced 23 Ill.Admin.Code Part 110, *Program Accounting Manual* and 23 Ill.Admin Code Part 125, *Student Activity Funds and Convenience Accounts*. ~~The Requirements for Accounting, Budgeting, Financial Reporting, and Auditing is at 23 Ill.Admin.Code Part 100.~~

**2** Audit requirements are found in 105 ILCS 5/3-7 and 5/3-15.1, and 23 Ill.Admin.Code §100.110. The federal Single Audit Act adds audit requirements for federal programs. (~~31 U.S.C. §7501 et seq.~~)

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent of Schools" with "appropriate Intermediate Service Center." ~~Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.~~

The following optional sentence establishes an audit committee: "The Board will annually establish an audit committee to help the Board select an external auditor, confer with the auditor regarding the audit's scope, and oversee the audit process." **Note:** All board committees are subject to the Open Meetings Act.

The following optional sentence establishes a competitive process for selecting the external auditor; it prevents a long-term relationship with an auditor and reduces the possibility of audits being too routine or friendly: "The Board will annually advertise a request for proposals to perform the external audit." Substitute "periodically" for "annually" if desired.

**3** Requirements for the annual financial report are found in 105 ILCS 5/2-3.27 and 5/3-15.1; 23 Ill.Admin.Code §100.100. The last sentence of this section should be modified to align with local conditions.

#### Inventories 4

The Superintendent or designee is responsible for establishing and maintaining accurate inventory records. The inventory record of supplies and equipment shall include a description of each item, quantity, location, purchase date, and cost or estimated replacement cost.

#### Disposition of District Property 5

The Superintendent or designee shall notify the Board, as necessary, of the following so that the Board may consider its disposition: (1) District personal property (property other than buildings and land) that is no longer needed for school purposes, and (2) school site, building, or other real estate that is unnecessary, unsuitable, or inconvenient. Notwithstanding the above, the Superintendent or designee may unilaterally dispose of personal property of a diminutive value.

#### Taxable Fringe Benefits 6

The Superintendent or designee shall: (1) require that all use of District property or equipment by employees is for the District's convenience and best interests unless it is a Board-approved fringe benefit, and (2) ensure compliance with the Internal Revenue Service regulations regarding when to report an employee's personal use of District property or equipment as taxable compensation.

#### Controls for Revolving Funds and Petty Cash 7

Revolving funds and the petty cash system are established in Board policy 4:50, *Payment Procedures*. The Superintendent shall: (1) designate a custodian for each revolving fund and petty cash fund, (2) obtain a bond for each fund custodian, and (3) maintain the funds in compliance with this policy, State law, and ~~Illinois State Board of Education~~ ISBE rules. A check for the petty cash fund may be drawn payable to the designated petty cash custodian. Bank accounts for revolving funds are limited to a maximum balance of \$500.00. All expenditures from these bank accounts must be directly related to the purpose for which the account was established and supported with documentation, including signed invoices or receipts. All deposits into these bank accounts must be accompanied with a clear

---

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

**4** The Illinois Program Accounting Manual (IPAM) was repealed and replaced with the *Requirements for Accounting, Budgeting, Financial Reporting, and Auditing*. While these ~~new~~ rules contain much of the IPAM information, the information about inventories was not included. That information is still useful and may be found at [www.isbe.net/Documents/ipam.pdf](http://www.isbe.net/Documents/ipam.pdf). The last sentence of this section should be modified to align with local conditions.

**5** The requirements in this section are specified in 105 ILCS 5/5-22, amended by P.A. 99-794, ~~eff. 1-1-17~~ (allowing property constructed or renovated by students as part of a curricular program to be sold through the services of a licensed real estate broker subject to certain requirements) and 5/10-22.8. A board that desires to act on the disposition of property having any value should use the following alternative to this section's last sentence: "Notwithstanding the above, the Superintendent or designee may unilaterally dispose of worthless personal property."

The recipient (through either sale or donation) of any discarded school bus must immediately: (1) remove, cover, or conceal the "SCHOOL BUS" signs and any other insignia or words indicating the vehicle is a school bus; (2) render inoperable or remove entirely the stop signal arm and flashing signal system; and (3) paint the school bus a different color from those under Section 12-801 of the Illinois Vehicle Code. 625 ILCS 5/12-806(b), added by P.A. 100-277, eff. 1-1-18.

**6** The intent of this optional section is twofold: (1) to control personal use of district property and equipment; and (2) to ensure compliance with IRS rules. As to the first point, allowing personal use of district property or equipment is arguably prohibited by the Ill. Constitution, Art. VIII, Sec 1 which states: "Public funds, property or credit shall be used only for public purposes." As to the second point, any fringe benefit an employer provides is taxable and must be included in the recipient's pay unless the law specifically excludes it. See Publication 15-B (2008), *Employer's Tax Guide to Fringe Benefits*, [www.irs.gov/pub/irs-pdf/p15b.pdf](http://www.irs.gov/pub/irs-pdf/p15b.pdf).

**7** 105 ILCS 5/10-20.19; 23 Ill.Admin.Code §100.70. This paragraph's contents are mandatory, except for the \$500 cap on the maximum balance of revolving funds. The cap amount may be changed or the following alternative used: "Each revolving fund shall be maintained in a bank that has been approved by the Board and established in an amount approved by the Superintendent consistent with the annual budget."



description of their intended purpose. The Superintendent or designee shall include checks written to reimburse revolving funds on the Board's monthly listing of bills indicating the recipient and including an explanation.

### Control Requirements for Checks 8

The Board must approve all bank accounts opened or established in the District's or a District school's name or with the District's Federal Employer Identification Number. All checks issued by the School District must be signed by either the Treasurer or Board President, except that checks from an account containing student activity funds and revolving accounts may be signed by the respective account custodian.

### Internal Controls 9

The Superintendent is primarily responsible for establishing and implementing a system of internal controls for safeguarding the District's financial condition; the Board, however, will oversee these safeguards. The control objectives are to ensure efficient business and financial practices, reliable financial reporting, and compliance with State law and Board policies, and to prevent losses from fraud, employee error, misrepresentation by third parties, or imprudent employee action.

The Superintendent or designee shall annually audit the District's financial and business operations for compliance with established internal controls and provide the results to the Board. The Board may from time-to-time engage a third party to audit internal controls in addition to the annual audit.

---

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

<sup>8</sup> This section is largely up to the local board's discretion; additional controls may be added. The following alternative to the second sentence will mandate two signatories for checks:

Two of the following individuals: the Treasurer, Board President, and/or Board Vice-President, shall sign all checks issued by the School District, except that checks from an account containing student activity funds and revolving accounts may be signed by the respective account custodian.

A board must comply with State law requirements concerning the use of facsimile or electronic signatures on checks. The Secretary of State, Index Department, maintains certified manual signatures of officers authorized to sign checks, ~~(Uniform Facsimile Signature of Public Officials Act, 30 ILCS 320/).~~ Electronic records and signatures are governed by the Electronic Commerce Security Act, ~~(5 ILCS 175/5).~~ Attorneys disagree about the applicability of these laws to school districts.

<sup>9</sup> This section is largely up to the local board's discretion. The annual audit must include a "review and testing of the internal control structure." ~~(23 Ill.Admin.Code §100.110).~~ This review's limited scope means that boards should not rely on it to reveal uncontrolled financial risks. The board's responsibility is to establish policy to safeguard the district's financial condition. Indeed, the oath of office includes this promise: "I shall respect taxpayer interests by serving as a faithful protector of the school district's assets." In this sample policy, the board sets the control objectives and the superintendent is responsible for developing an internal controls system.

Boards that wish to take a larger oversight role regarding internal controls may list the numbered sentences in the IASB sample administrative procedure 4:80-AP, *Checklist for Internal Controls*, as required inclusions in the superintendent's program for internal controls. This alternative, for insertion at the end of this section's first paragraph, follows:

The District's system of internal controls shall include the following:

1. All financial transactions must be properly authorized and documented.
2. Financial records and data must be accurate and complete.
3. Accounts payable must be accurate and punctual.
4. District assets must be protected from loss or misuse.
5. Incompatible duties should be segregated, if possible.
6. Accounting records must be periodically reconciled.
7. Equipment and supplies must be safeguarded.
8. Staff members with financial or business responsibilities must be properly trained and supervised, and must perform their responsibilities with utmost care and competence.
9. Any unnecessary weaknesses or financial risks must be promptly corrected.

LEGAL REF.: 105 ILCS 5/2-3.27, 5/2-3.28, 5/3-7, 5/3-15.1, 5/5-22, 5/10-21.4, 5/10-20.19, 5/10-22.8, and 5/17-1 et seq.  
23 Ill.Admin.Code Part 100.

CROSS REF.: 4:10 (Fiscal and Business Management), 4:50 (Payment Procedures), 4:55 (Use of Credit and Procurement Cards), 4:90 (Activity Funds)

## Operational Services

### Transportation 1

The District shall provide free transportation for any student in the District who resides: (1) at a distance of one and one-half miles or more from his or her assigned school, unless the School Board has certified to the Illinois State Board of Education that adequate public transportation is available,<sup>2</sup> or (2) within one and one-half miles from his or her assigned school where walking to or from school or to or from a pick-up point or bus stop would constitute a serious hazard due to vehicular traffic or rail crossing, and adequate public transportation is not available.<sup>3</sup> A student's parent(s)/guardian(s) may file a petition with the Board requesting transportation due to the existence of a serious safety hazard.<sup>4</sup> Free transportation service and vehicle adaptation is provided for a special education student if included in the student's individualized educational program.<sup>5</sup> Non-public school students shall be transported in accordance with State law.<sup>6</sup> Homeless students shall be transported in accordance with

**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 5/29-1 et seq. and 23 Ill.Admin.Code Part 120).~~ **Important: The board of a district that does not provide transportation must amend this policy.** F/n 2 discusses when districts must provide free transportation. Please contact an IASB Policy Consultant for *gratis* help customizing this policy. You may also need to consult the board attorney.

A district that chooses to consider locations other than individual students' residences as pick-up and drop-off locations must adopt a policy establishing this practice to receive State reimbursement. ~~(23 Ill.Admin.Code §120.30(a)(1)(B)).~~

Each district must have a pre-trip and post-trip inspection policy. ~~(625 ILCS 5/12-816(a)).~~ An ISBE rule requires boards to "institute policies and practices that promote the safety and well-being of school bus passengers." ~~(23 Ill.Admin.Code §1.510(g)).~~ To comply with these requirements, this policy lists relevant administrative procedures at the end.

The policy does not address an *automatic traffic enforcement* system which may be enacted by a municipality or county. An *automatic traffic law enforcement system* is a device that senses and records a motor vehicle that illegally fails to stop for a school bus. ~~(625 ILCS 5/11-208.9).~~ Each school board within that municipality or county's jurisdiction may approve the system's implementation. The board is then required to enter into an intergovernmental agreement with the municipality or county and contract with vendors for the system's installation, maintenance, and operation. Each applicable school bus must be posted with a sign indicating that it is being monitored by an automated traffic law enforcement system. The proceeds from a school district's automated traffic law enforcement system's fines shall be divided equally between the school district and the municipality or county administering the automated traffic law enforcement system.

**2** Only the following districts must provide free transportation as described in the sample policy: community consolidated districts, community unit districts, consolidated districts, consolidated high school districts, and combined school districts if the combined district includes any district that was previously required to provide transportation. ~~(105 ILCS 5/29-3 and 23 Ill.Admin.Code §1.510(a)).~~ Districts that are not required to provide free transportation may do so. ~~(Id.).~~ To qualify for State reimbursement, districts electing to provide transportation when they are not required to do so must afford the same service to all students in that same situation. ~~(23 Ill.Admin.Code §1.510(b)).~~ Districts may provide transportation within one and one-half miles and may charge for such transportation. ~~(105 ILCS 5/29-2).~~

Optional provision: (105 ILCS 5/29-3.1)

The District may provide transportation to and from school-sponsored activities and may charge for such transportation.

**3** 105 ILCS 5/29-3 and 23 Ill.Admin.Code §1.510. The determination as to what constitutes a serious safety hazard is made by the board, in accordance with guidelines issued by the Ill. Dept. of Transportation, in consultation with the State Superintendent of Education.

**4** Required by 105 ILCS 5/29-3. Another statute provides a process for *qualifying students* to seek reimbursement from ISBE for *qualified transportation expenses*. ~~(105 ILCS 5/29-5.2; 23 Ill.Admin.Code §120.-240).~~ 23 Ill.Admin.Code §120.230 requires, among other things, that each attendance center designate a representative to assist parents/guardians with this process. This process does not need to be in board policy and is not covered herein.

**5** 34 C.F.R. §300.34 and 23 Ill.Admin.Code §226.750.

**6** 105 ILCS 5/29-3.2 and 5/29-4.

Section 45/1-15 of the Education for Homeless Children Act.<sup>7</sup> Foster care students shall be transported in accordance with Section 6312(c)(5)(B) of the Elementary and Secondary Education Act. <sup>8</sup>

If a student is at a location within the District, other than his or her residence, for child care purposes at the time for transportation to and/or from school, that location may be considered for purposes of determining the one and one-half miles from the school attended. Unless the Superintendent or designee establishes new routes, pick-up and drop-off locations for students in day care must be along the District's regular routes. The District will not discriminate among types of locations where day care is provided, which may include the premises of licensed providers, relatives' homes, or neighbors' homes.<sup>9</sup>

Bus schedules and routes shall be determined by the Superintendent or designee and shall be altered only with the Superintendent or designee's approval and direction. In setting the routes, the pick-up and discharge points should be as safe for students as possible.<sup>10</sup>

No school employee may transport students in school or private vehicles unless authorized by the administration. <sup>11</sup>

---

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

<sup>7</sup> 105 ILCS 45/. State law implements the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.

P.A. 100-332 amended the School Code and the Education for Homeless Children Act to permit school districts to use their State transportation funds to provide financial assistance to children that are defined as homeless or at risk of becoming homeless, provided certain criteria are satisfied. 105 ILCS 5/29-5; 105 ILCS 45/1-17. 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). For further detail, see 6:140-AP, Education of Homeless Children.

<sup>8</sup> Required if the district receives Title I funds. ~~(20 U.S.C. §6312(c)(5)(B)). The Elementary and Secondary Education Act (ESEA)~~ requires the district to collaborate with the State or local child welfare agency to, ~~by December 10, 2016,~~ develop and implement clear written procedures governing how transportation to maintain children in foster care in the school of origin (when in their best interest) will be provided, arranged, and funded for the duration of their time in foster care. ISBE guidance on transportation procedures for students in foster care is available at: [www.isbe.net/Pages/Foster-Care.aspx](http://www.isbe.net/Pages/Foster-Care.aspx). The U.S. ~~Depts. artnments~~ Departments of Education and Health and Human Services, in *Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care* (~~June 23, 2016~~ 2016-23-16) at [www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf](http://www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf), opine that ESEA requirements apply to students who meet the definition of *foster care* set forth at 45 C.F.R. §1355.20(a):

*Foster care* means 24-hour substitute care for children placed away from their parents or guardians and for whom the title IV-E agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the State, Tribal or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made.

~~Effective December 10, 2016,~~ ESEA foster care transportation requirements also apply to students *awaiting* foster care placement.

105 ILCS 5/10-20.58, added by P.A. 99-781, permits school boards to appoint at least one employee to act as a liaison to facilitate the enrollment and transfer of records of students in the legal custody of the Ill. Department of Children and Family Services (DCFS) when enrolling in or changing schools. Liaison responsibilities may include, among other things, working with DCFS to help students maintain their school placement, if appropriate.

<sup>9</sup> This paragraph should be deleted if a district will not seek State reimbursement for transportation to and from locations other than individual students' residences. As a condition for receiving State reimbursement, an ISBE rule requires boards to have a policy with the provisions in this paragraph. ~~(23 Ill.Admin.Code §120.30(a)(1)(B)).~~ This rule also contains the non-discrimination language.

<sup>10</sup> The paragraph is optional. As an alternative, a board may state that pick-up and discharge points "should be as safe and convenient as possible."

Every vehicle regularly used for the transportation of students must pass safety inspections in accordance with State law and Illinois Department of Transportation regulations.<sup>12</sup> The strobe light on a school bus may be illuminated only when the bus is actually being used as a school bus and (1) is stopping or stopped for loading or discharging students on a highway outside an urban area, or (2) is bearing one or more students.<sup>13</sup> The Superintendent shall implement procedures in accordance with State law for accepting comment calls about school bus driving.<sup>14</sup>

All contracts for charter bus services must contain the clause prescribed by State law regarding criminal background checks for bus drivers.<sup>15</sup>

---

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

<sup>11</sup> Optional. This presents an opportunity for each board to discuss this issue with the superintendent and direct the superintendent to include it in the curriculum for the required in-service on educator ethics, teacher-student conduct, and school employee-student conduct for all personnel. ~~(105 ILCS 5/10-22.39)~~. See 5:100 *Staff Development Program* (f/n 3), and 5:120, *Employee Ethics; Conduct; and Conflict of Interest* (f/n 2), for more detailed discussions. Include policies 5:100, *Staff Development Program* and 5:120, *Employee Ethics; Conduct; and Conflict of Interest*, in the cross references when this sentence is used.

<sup>12</sup> 625 ILCS 5/13-109. The vehicle and other requirements for transporting students to and from interscholastic or school-sponsored activities, including curriculum-related activities, are found in 105 ILCS 5/29-6.3 and 625 ILCS 5/11-1414.1. These statutes also contain requirements for the use of multi-function school activity buses (defined at 625 ILCS 5/1-148.3a-5). The legislature frequently amends these statutes, along with many transportation laws; they should be double-checked before relying on them.

<sup>13</sup> 625 ILCS 5/12-815. The statute, like the policy, identifies the conditions in which illuminating the strobe light is permissible instead of mandating when they must be illuminated.

<sup>14</sup> 625 ILCS 5/12-821(b) requires districts that own school buses and multifunction school activity buses to establish procedures for accepting comment calls and responding to them. In accordance with good governance principles, this duty is delegated to the superintendent. For a sample procedure, see 4:110-AP2, *Bus Driver Communication Devices; Pre-Trip and Post-Trip Inspection; Bus Driving Comments*.

<sup>15</sup> 105 ILCS 5/10-20.21a, requires all contracts for providing charter bus services to transport students to or from interscholastic athletic or interscholastic or school sponsored activities to contain clause (A) except that a contract with an out-of-state company may contain clause (B) or clause (A). The clause must be set forth in the contract's body in at least 12-point typeface and all upper case letters:

(A) "ALL OF THE CHARTER BUS DRIVERS WHO WILL BE PROVIDING SERVICES UNDER THIS CONTRACT HAVE, OR WILL HAVE BEFORE ANY SERVICES ARE PROVIDED:

(1) SUBMITTED THEIR FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT OF STATE POLICE. THESE FINGERPRINTS SHALL BE CHECKED AGAINST THE FINGERPRINT RECORDS NOW AND HEREAFTER FILED IN THE DEPARTMENT OF STATE POLICE AND FEDERAL BUREAU OF INVESTIGATION CRIMINAL HISTORY RECORDS DATABASES. THE FINGERPRINT CHECK HAS RESULTED IN A DETERMINATION THAT THEY HAVE NOT BEEN CONVICTED OF COMMITTING ANY OF THE OFFENSES SET FORTH IN SUBDIVISION (C-1)(4) OF SECTION 6-508 OF THE ILLINOIS VEHICLE CODE; AND

(2) DEMONSTRATED PHYSICAL FITNESS TO OPERATE SCHOOL BUSES BY SUBMITTING THE RESULTS OF A MEDICAL EXAMINATION, INCLUDING TESTS FOR DRUG USE, TO A STATE REGULATORY AGENCY."

(B) "NOT ALL OF THE CHARTER BUS DRIVERS WHO WILL BE PROVIDING SERVICES UNDER THIS CONTRACT HAVE, OR WILL HAVE BEFORE ANY SERVICES ARE PROVIDED:

(1) SUBMITTED THEIR FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT OF STATE POLICE. THESE FINGERPRINTS SHALL BE CHECKED AGAINST THE FINGERPRINT RECORDS NOW AND HEREAFTER FILED IN THE DEPARTMENT OF STATE POLICE AND FEDERAL BUREAU OF INVESTIGATION CRIMINAL HISTORY RECORDS DATABASES. THE FINGERPRINT CHECK HAS RESULTED IN A DETERMINATION THAT THEY HAVE NOT BEEN CONVICTED OF COMMITTING ANY OF THE OFFENSES SET FORTH IN SUBDIVISION (C-1)(4) OF SECTION 6-508 OF THE ILLINOIS VEHICLE CODE; AND

(2) DEMONSTRATED PHYSICAL FITNESS TO OPERATE SCHOOL BUSES BY SUBMITTING THE RESULTS OF A MEDICAL EXAMINATION, INCLUDING TESTS FOR DRUG USE, TO A STATE REGULATORY AGENCY."

## Pre-Trip and Post-Trip Vehicle Inspection<sup>16</sup>

The Superintendent or designee shall develop and implement a pre-trip and post-trip inspection procedure to ensure that the school bus driver: (1) tests the two-way radio or cellular radio telecommunication device and ensures that it is functioning properly before the bus is operated, and (2) walks to the rear of the bus before leaving the bus at the end of each route, work shift, or work day, to check the bus for children or other passengers in the bus.

- LEGAL REF.: Elementary and Secondary Education Act, 20 U.S.C. §6312(c)(5)(B).  
McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.  
105 ILCS 5/10-22.22 and 5/29-1 et seq.  
105 ILCS 45/1-15 and /1-17.  
625 ILCS 5/1-148.3a-5, 5/1-182, 5/11-1414.1, 5/12-813, 5/12-813.1, 5/12-815, 5/12-816, 5/12-821, and 5/13-109.  
23 Ill.Admin.Code §§1.510 and 226.750; Part 120.  
92 Ill.Admin.Code §440-3.
- CROSS REF.: 4:170 (Safety), 5:100 (Staff Development Program), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:280 (Educational Support Personnel - Duties and Qualifications), 6:140 (Education of Homeless Children), 6:170 (Title I Programs), 7:220 (Bus Conduct)
- ADMIN. PROC.: 4:110-AP2 (Bus Driver Communication Devices; Pre-Trip and Post-Trip Inspection; Bus Driving Comments), 4:110-AP3 (School Bus Safety Rules), 4:110-E (Emergency Medical Information for Students Having Special Needs or Medical Conditions Who Ride School Buses), 6:140-AP (Education of Homeless Children)

---

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

<sup>16</sup> 625 ILCS 5/12-816(a) requires school districts to have a school bus pre- and post-trip inspection policy with the components as contained in this policy. See also 23 Ill.Admin.Code §1.510(i)(3) and 92 Ill.Admin.Code §458.1030. For a sample procedure, see 4:110-AP2, *Bus Driver Communication Devices; Pre-Trip and Post-Trip Inspection; Bus Driving Comments*. School districts that ~~contracts~~ with a private sector school bus company must require the company to have a pre- and post-trip inspection policy that is equivalent to this section of the policy. ~~(625 ILCS 5/12-816(b)).~~

Each school bus must contain an operating two-way radio or cellular radio telecommunication device while the school bus driver is in possession of a school bus. ~~(625 ILCS 5/12-813.1(e)).~~ “Cellular radio telecommunication device” means a device capable of sending or receiving telephone communications without an access line for service and which requires the operator to dial numbers manually; it does not include citizens band radios or citizens band radio hybrids. ~~(625 ILCS 5/12-813.1(a)).~~ The two-way radio or cellular radio telecommunication device 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(e)).~~ A school bus driver may not operate a school bus while using a cellular radio telecommunication device except in the following situations: (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) in the event of a “mechanical breakdown or other mechanical problem;” (3) to communicate with school authorities about bus operation or the safety of a passenger on the bus; and (4) when the bus is parked. ~~(625 ILCS 5/12-813.1(c)).~~ However under no circumstances may the cellular radio telecommunication device be used for anything else including personal use. ~~(625 ILCS 5/12-813.1(c)(2)).~~

## Operational Services

### Facility Management and Building Programs 1

The Superintendent shall manage the District's facilities and grounds as well as facility construction and building programs in accordance with the law, the standards set forth in this policy, and other applicable School Board policies. The Superintendent or designee shall facilitate: (1) inspections of schools by the Regional Superintendent and State Fire Marshal or designee, and (2) review of plans and specifications for future construction or alterations of a school if requested by the relevant municipality, county (if applicable), or fire protection district. <sup>2</sup>

#### Standards for Managing Buildings and Grounds

All District buildings and grounds shall be adequately maintained in order to provide an appropriate, safe, and energy efficient physical environment for learning and teaching. The Superintendent or designee shall provide the Board with periodic reports on maintenance data and projected maintenance needs that include cost analysis. Prior Board approval is needed for all renovations or permanent alterations to buildings or grounds when the total cost will exceed \$12,500, including the cost equivalent of staff time.<sup>3</sup> This policy is not intended to discourage efforts to improve the appearance of buildings or grounds that are consistent with the designated use of those buildings and grounds.

---

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

<sup>1</sup> Each district with a school having 50 or more students must have a green school cleaning policy. ~~(Green Cleaning School Act, 105 ILCS 140/). IASB sample policy 4:160, *Environmental Quality of Buildings and Grounds*, fulfills the requirement to have a procedure on compliance with the Chemical Safety Acts. (105 ILCS 5/10-20.49).~~ Many other State and federal laws control facility management and building programs. Good subjects for administrative procedures include management of custodial services, security, and green cleaning, among others.

The federal rules implementing the Americans with Disabilities Act of 1990 (ADA, 42 U.S.C. §12101 et seq.) prohibit discrimination on the basis of disability in services and facilities. ~~(28 C.F.R. Parts 35 and 36).~~ The 2010 ADA Standards for Accessible Design (28 C.F.R. Part 36, Appendix) are available from a link on the ADA home page, [www.ada.gov/](http://www.ada.gov/). Consult the board attorney about how these standards apply to alterations and new construction.

The Prevailing Wage Act is generally applicable to all construction projects. ~~(820 ILCS 130/).~~ It requires, among other things, that: (1) all workers on a public works project be paid no less than the prevailing hourly rate (820 ILCS 130/1);<sup>2</sup> (2) the district specify in all public works contracts that the prevailing rate must be paid (820 ILCS 130/4(a-1));<sup>2</sup> and (3) all contractors must submit certain employment records to the district and the district must keep these records as required by law (820 ILCS 130/5).

105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-163, eff. 1-1-18, requires school districts to make feminine hygiene products (defined as tampons and sanitary napkins for use in connection with the menstrual cycle) available, at no cost to students, in the bathrooms of school buildings serving students in grades 6 through 12. **Note:** The statute does not delineate between types of bathrooms (student, staff, girls, boys, unisex, etc.). Consult with the board attorney about implementing this law.

<sup>2</sup> 105 ILCS 5/3-14.20 and 5/3-14.21.

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

<sup>3</sup> This provision is optional and the amount may be changed. The \$12,500 spending limit is one-half of the bidding threshold for purchases or contracts. ~~(105 ILCS 5/10-20.21).~~ This provision's intent is to ensure that the board is kept informed about significant renovations and permanent alterations. A board should discuss this provision with its superintendent before including it in the policy.

## Standards for Green Cleaning 4

For each District school with 50 or more students, the Superintendent or designee shall establish and supervise a green cleaning program that complies with the guidelines established by the Illinois Green Government Coordinating Council.

## Standards for Facility Construction and Building Programs 5

As appropriate, the Board will authorize a comprehensive study to determine the need for facility construction and expansion. On an annual basis, the Superintendent or designee shall provide the Board with projected facility needs, enrollment trends, and other data impacting facility use. Board approval is needed for all new facility construction and expansion.

When making decisions pertaining to design and construction of school facilities, the Board will confer with members of the staff and community, the Illinois State Board of Education, and educational and architectural consultants, as it deems appropriate. The Board's facility goals are to:

1. Integrate facilities planning with other aspects of planning and goal-setting.
2. Base educational specifications for school buildings on identifiable student needs.
3. Design buildings for sufficient flexibility to permit new or modified programs.
4. Design buildings for maximum potential for community use.

---

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

<sup>4</sup> Required by the Green Cleaning School Act (105 ILCS 140/) and Green Cleaning for Elementary and Secondary Schools (23 Ill.Admin.Code Part 2800). The Ill. Green Government Coordinating Council established *Guidelines and Specifications* which state: "While not mandatory, schools should implement the practices set forth in the Recommendations section of these guidelines where applicable and appropriate." See [Guidelines and Specifications at: www.illinois.gov/gov/green/Documents/Illinois%20Green%20Cleaning%20Guidelines%20and%20Specifications.pdf](http://www.illinois.gov/gov/green/Documents/Illinois%20Green%20Cleaning%20Guidelines%20and%20Specifications.pdf).

<sup>5</sup> The inclusion and identification of the facility goals listed in the second paragraph are at the board's discretion. 105 ILCS 5/2-3.12 and 23 Ill.Admin.Code Part 180 contain the School building code and Health/Life and Safety Code for Public Schools, respectively. Among their mandates are the decennial *safety survey report*, ~~(105 ILCS 5/2-3.1-2(b); 23 Ill.Admin.Code §180.310)~~. After 1-1-15, all "new school building construction" must include a storm shelter that meets or exceeds the ICC/NSSA Standard for the Design and Construction of Storm Shelters (ICC-500) published jointly by the International Code Council and the National Storm Shelter Association, ~~(105 ILCS 5/2-3.12(e-5); 23 Ill.Admin.Code §180.60(b)(3), amended at 40 Ill. Reg. 3059)~~. Any facility project for which the design contract is executed after 7-1-16 must meet standards of the 2015 International Building Code and its subcodes, ~~(23 Ill.Admin.Code 180.60(a), amended at 40 Ill. Reg. 3059)~~.

The Ill. Environmental Barriers Act (410 ILCS 25/) and the Ill. Accessibility Code (71 Ill.Admin.Code Part 400) ensure that "all applicable buildings and facilities in the State of Illinois, is so designed, constructed, and/or altered to assure the safety and welfare of all members of society and to be readily accessible to, and usable by, environmentally limited persons." ~~(71 Ill.Admin.Code §400.110(a)). Note: The Ill. Environmental Barriers Act, as amended by P.A. 99-582, eff. 1-1-17, deleted the term *environmentally limited person*, which until then had been defined in 410 ILCS 25/3 as "a person with a disability or condition who is restricted in the use of the built environment."~~ Press boxes constructed on school property do not have to comply with the Accessibility Code if the press boxes are in bleachers that have points of entry at only one level, and the aggregate area of the press box is no more than 500 square feet, ~~(105 ILCS 5/10-20.51; 23 Ill.Admin.Code 180.60(b)(4), amended at 40 Ill. Reg. 3059)~~.

A building intended for classroom or instructional use may be constructed only after voter approval at a referendum unless the building is: (1) leased by the district, or (2) purchased with funds from the sale or disposition of other buildings or structures, or with funds received as a grant under the School Construction Law or as a gift, provided that no funds (other than lease payments) are derived from the district's bonded indebtedness or its tax levy, ~~(105 ILCS 5/10-22.36)~~.

A district may levy a tax for "fire prevention, safety, energy conservation, disabled accessibility, school security, and specified repair purposes," ~~(105 ILCS 5/17-2.11)~~. An expedited process may be available in emergency situations, ~~(Id.)~~. A board may, subject to certain notice requirements, transfer surplus life safety taxes and interest earnings on them to the Operations and Maintenance Fund for building repair work until June 30, 2019, ~~(Id.)~~, amended by P.A. 99-713).

The Green Buildings Act requires all new State-funded building construction and major renovation projects to meet specified environmental requirements, ~~(20 ILCS 3130)~~. Waivers may be granted by the Capital Development Board in certain situations, ~~(Id.)~~, ~~20 ILCS 3130/15(e)~~. For environmental impact laws, see policy 4:160, *Environmental Quality of Buildings and Grounds*.



5. Meet or exceed all safety requirements.
6. Meet requirements on the accessibility of school facilities to disabled persons as specified in State and federal law.
7. Provide for low maintenance costs, energy efficiency, and minimal environmental impact.

Naming Buildings and Facilities <sup>6</sup>

Recognizing that the name for a school building, facility, or ground or field reflects on its public image, the Board's primary consideration will be to select a name that enhances the credibility and stature of the school or facility. Any request to name or rename an existing facility should be submitted to the Board.<sup>7</sup> When a facility is to be named or renamed, the Board President will appoint a special committee to consider nominations and make a recommendation, along with supporting rationale, to the Board. The Board will make the final selection. The Superintendent or designee may name a room or designate some area on a school's property in honor of an individual or group that has performed outstanding service to the school without using the process in this policy.

LEGAL REF.: 42 U.S.C. §12101 et seq., Americans with Disabilities Act of 1990, implemented by 28 C.F.R. Parts 35 and 36.  
 20 ILCS 3130/, Green Buildings Act.  
 105 ILCS 5/2-3.12, 5/10-20.49, 5/10-22.36, 5/10-20.60 (P.A. 100-163, final citation pending), and 5/17-2.11.;  
105 ILCS 140/, Green Cleaning Schools Act., and  
105 ILCS 230/, School Construction Law.  
 410 ILCS 25/, Environmental Barriers Act.  
 820 ILCS 130/, Prevailing Wage Act.  
 23 Ill.Admin.Code Part 151, School Construction Program; Part 180, Health/Life Safety Code for Public Schools; and Part 2800, Green Cleaning for Elementary and Secondary Schools.  
 71 Ill.Admin.Code Part 400, Ill. Accessibility Code.

CROSS REF.: 2:150 (Committees), 2:170 (Procurement of Architectural, Engineering, and Land Surveying Services), 4:60 (Purchases and Contracts), 8:70 (Accommodating Individuals with Disabilities)

---

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

<sup>6</sup> This section is optional and its contents are at the board's discretion.

<sup>7</sup> The board may want to include criteria for the committee, in which case the following is an option:

1. The committee will encourage input from the community, staff members, and students.
2. Consideration will be given to names of local communities, neighborhoods, streets, landmarks, historical considerations, and individuals who have made a contribution to the District, community, State, or nation.
3. The name will not duplicate or cause confusion with the names of existing facilities in the District.

## Operational Services

### Safety 1

#### Safety and Security

All District operations, including the education program, shall be conducted in a manner that will promote the safety and security of everyone on District property or at a District event.<sup>2</sup> The Superintendent or designee shall develop, implement, and maintain a comprehensive safety and security plan that includes, without limitation:

1. An emergency operations and crisis response plan(s) addressing prevention, preparation, response, and recovery for each school; <sup>3</sup>
2. Provisions for a coordinated effort with local law enforcement and fire officials, emergency medical services personnel, and the Board Attorney;
3. A school safety drill plan;
4. Instruction in safe bus riding practices; <sup>4</sup> and
5. A clear, rapid, factual, and coordinated system of internal and external communication.

In the event of an emergency that threatens the safety of any person or property, students and staff are encouraged to follow the best practices discussed for their building regarding the use of any available cellular telephones. <sup>5</sup>

---

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

<sup>1</sup> State law requires a policy on several topics in this policy (see f/n 5, 7, 8 ~~&~~ and 9) and otherwise controls this policy's content. Topics previously assigned to this code number were moved in May 2014 and placed in 4:100, *Insurance Management* and 4:175, *Convicted Child Sex Offender; Screening; Notifications*.

<sup>2</sup> This simple end statement should be discussed and altered accordingly before board adoption. Ask: what effect or impact will this statement have on the students and the community?

<sup>3</sup> The term *emergency operations and crisis response plan* is used because federal agencies refer to school *emergency operations plans* and the *School Safety Drill Act (105 ILCS 128/)* refers to *emergency and crisis response plans*.

See administrative procedure 4:170-AP1, *Comprehensive Safety and Security Plan*. This procedure follows the recommendations in the *"Guide for Developing High-Quality School Emergency Operations Plans,"* produced by a collaboration of federal agencies in 2013, ~~available~~ at: [rems.ed.gov/docs/REMS\\_K-12\\_Guide\\_508.pdf](http://rems.ed.gov/docs/REMS_K-12_Guide_508.pdf). The *Guide* informs schools what they *need* to do, not *what* to do. It recommends a process for developing, implementing, and continually refining a school emergency operations plan as well as a discussion of its form, function, and content.

The Illinois State Board of Education (ISBE) maintains a comprehensive website on school emergency and crisis response planning in compliance with the *School Safety Drill Act* and *Joint Rules of the Office of the State Fire Marshal and the Illinois State Board of Education (29 Ill.Admin.Code Part 1500)*, at [www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx](http://www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx). ISBE's website includes a *Sample School Emergency Operations Plan* which aligns with the federal *Guide for Developing High-Quality School Emergency Operations Plans*.

<sup>4</sup> Required by 105 ILCS 128/20(b) and 105 ILCS 5/10-20.14(c) for all students. See 4:110-AP3, *School Bus Safety Rules*.

<sup>5</sup> 105 ILCS 5/10-20.28. Consider discussing with local law enforcement what its preference would be and encourage staff and students to follow the recommendation. A wave of 911 cell phone calls can jam phone lines. Student use of cell phones is addressed in 7:190, *Student Behavior*.

## School Safety Drill Plan 6

During every academic year, each school building that houses school children shall conduct, at a minimum, each of the following in accordance with the School Safety Drill Act, (105 ILCS 128/):

1. Three school evacuation drills to address and prepare students and school personnel for fire incidents. One of these three drills shall require the participation of the local fire department or district.
2. One bus evacuation drill.
3. One severe weather and shelter-in-place drill to address and prepare students and school personnel for possible tornado incidents.
4. One law enforcement drill to address a school shooting incident.

## Annual Review

The Board or its designee will annually review each school building's emergency operations and crisis response plan(s), protocols, and procedures, as well as each building's compliance with the school safety drill plan. This annual review shall be in accordance with the School Safety Drill Act (105 ILCS 128/) and the Joint Rules of the Office of the State Fire Marshal and the Illinois State Board of Education (29 Ill.Admin.Code Part 1500). 7

## Automated External Defibrillator (AED) 8

The Superintendent or designee shall implement a written plan for responding to medical emergencies at the District's physical fitness facilities in accordance with the Fitness Facility Medical Emergency

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

625 ILCS 5/12-610.1(e) prohibits wireless telephone use at any time while operating a motor vehicle on a roadway in a school speed zone except for: (1) highway construction or maintenance workers within their work zones; (2) any use for emergency purposes; (3) law enforcement officers or emergency responders performing their duties; (4) a person using a wireless telephone in voice-operated mode with or without use of a headset; and (5) a person with technology that uses a single button to initiate or terminate a voice communication (e.g., HandsFreeLink®). 625 ILCS 5/12-813.1 limits cell phone use by school bus drivers; see policy 4:110, *Transportation*.

6 Each of the listed drills is required by the School Safety Drill Act, ~~105 ILCS 128/~~. Each drill's requirements are comprehensively covered in 4:170-AP1, *Comprehensive Safety and Security Plan*. For information about documenting minimum compliance with the School Safety Drill Act, see [www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx](http://www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx).

105 ILCS 5/2-3.12(f) authorizes the Ill. State Fire Marshal or a qualified fire official to whom the Ill. State Fire Marshal has delegated his or her authority to conduct an annual fire safety inspection of each school building, provided the inspection is coordinated with the regional superintendent. See also 105 ILCS 5/3-14.21(c) and 23 Ill.Admin.Code §180.300(b). To effectively implement this law and ensure the education of students in the district is not disturbed, school officials should discuss with the State Fire Marshal and regional superintendent whether written notice may be provided to the principal requesting to schedule a mutually agreed upon time.

7 The School Safety Drill Act requires each school board or its designee to conduct one annual meeting at which it reviews each building's emergency and crisis response plan, protocols, and procedures and each building's compliance with the school safety drill plan. 105 ILCS 128/25 and 128/30; 29 Ill.Admin.Code Part 1500. If the board uses a designee, it should preferably be someone other than the District Safety Coordinator to assure an unbiased audit. The statute contains detailed requirements. The board or its designee must: (1) complete a one-page report certifying that the review took place, among other things; (2) send a copy of the report to each participating party; and (3) send a copy of the report to the appropriate Regional Superintendent. ISBE's website contains a suggested annual review checklist and a report form to document compliance at: [www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx](http://www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx).

8 Each indoor and outdoor physical fitness facility serving at least 100 individuals must "adopt and implement a written plan for responding to medical emergencies that occur at the facility during the time that the facility is open for use by its members or by the public." The facility must file the plan with the Ill. Dept. of Public Health (IDPH). In addition, each indoor facility must have at least one AED on the premises, and each outdoor facility must house an AED in a building, if any, that is within 300 feet of the outdoor facility. See the statute and administrative rules for the other numerous mandates: 210 ILCS 74/4 (Physical Fitness Facility Medical Emergency Preparedness Act); 77 Ill.Admin.Code Part 527. Also see 4:170-AP6, *Plan for Responding to a Medical Emergency at a Physical Fitness Facility with an AED*.

Preparedness Act and shall file a copy of the plan with the Ill. Dept. of Public Health (IDPH). The plan shall provide for ~~at least one~~ automated external defibrillator (AED) to be available at every physical fitness facility on the premises according to State law requirements.

The District shall have an AED on site as well as a trained AED user: (1) on staff during staffed business hours; and (2) available during activities or events sponsored and conducted or supervised by the District.<sup>9</sup> The Superintendent or designee shall ensure that every AED on the District's premises is properly tested and maintained in accordance with rules developed by the IDPH.<sup>10</sup> ~~This policy does not create an obligation to use an AED nor is it intended to create any expectation that an AED will be present or a trained person will be present and/or able to use an AED.~~

### Carbon Monoxide Alarms <sup>11</sup>

The Superintendent or designee shall implement a plan with the District's local fire officials to:

1. Determine which school buildings to equip with approved *carbon monoxide alarms* or *carbon monoxide detectors*,
2. Locate the required carbon monoxide alarms or carbon monoxide detectors within 20 feet of a carbon monoxide emitting device, and
3. Incorporate carbon monoxide alarm or detector activation procedures into each school building that requires a carbon monoxide alarm or detector. The Superintendent or designee shall ensure each school building annually reviews these procedures.

### Soccer Goal Safety <sup>12</sup>

The Superintendent or designee shall implement the Movable Soccer Goal Safety Act in accordance with the guidance published by the ~~Illinois Department of Public Health~~IDPH. Implementation of the Act shall be directed toward improving the safety of movable soccer goals by requiring that they be properly anchored.

---

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

<sup>9</sup> 77 Ill.Admin.Code §527.600(d), (f).

<sup>10</sup> 210 ILCS 74/15(c); 77 Ill.Admin.Code §527.700.

<sup>11</sup> 105 ILCS 5/10-20.567, added by P.A. 99-470 and amended by P.A. 99-642. *Carbon monoxide detector* and *detector* mean a device having a sensor that responds to carbon monoxide gas and that is connected to an alarm control unit and approved in accordance with rules adopted by the Ill. State Fire Marshal. *Approved carbon monoxide alarm* or *alarm* means a carbon monoxide alarm that complies with all the requirements of the rules and regulations of the Ill. State Fire Marshal, bears the label of a nationally recognized testing laboratory, and complies with the most recent standards of the Underwriters Laboratories or the Canadian Standard Association. (430 ILCS 135/5).

**Consult both the board attorney and the local fire officials about whether a school building is exempt from this law.** Remove this subhead if the board attorney determines that every building across the entire school district is exempt. The law applies to school buildings that have or are close to any *sources of carbon monoxide*; however, it does not specifically define what that means. 430 ILCS 135/20 defines exemptions for residential units and may provide guidance on the exemption for schools. The law also fails to define *carbon monoxide emitting device*, which triggers the placement point in a school building for a carbon monoxide alarm or carbon monoxide detector.

<sup>12</sup> Include this section **only if** the school district owns and controls a movable soccer goal ~~(Movable Soccer Goal Safety Act, a/k/a Zach's Law, 430 ILCS 145/).~~ The Act requires: (1) organizations that own and control a movable soccer goal to create a soccer goal safety and education policy that outlines how the organization will specifically address the safety issues associated with movable soccer goals; and (2) the ~~Ill. Dept. of Public Health~~IDPH to provide technical assistance materials; ~~which are available at: See~~ dph.illinois.gov/topics-services/prevention-wellness/injury-violence-prevention/soccer-goal-safety.

### Unsafe School Choice Option 13

The unsafe school choice option allows students to transfer to another District school or to a public charter school within the District. The unsafe school choice option is available to:

1. All students attending a persistently dangerous school, as defined by State law and identified by the Illinois State Board of Education.
2. Any student who is a victim of a violent criminal offense, as defined by 725 ILCS 120/3, that occurred on school grounds during regular school hours or during a school-sponsored event.

The Superintendent or designee shall develop procedures to implement the unsafe school choice option.

### Lead Testing in Water 14

The Superintendent or designee shall implement testing for lead in each source of drinking water in school buildings in accordance with the Illinois Plumbing License Law and guidance published by the IDPH. 15 The Superintendent or designee shall notify parent(s)/guardian(s) about the sampling results from their children's respective school buildings. 16

---

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

**13** This topic must be covered in board policy. ~~105 ILCS 5/10-21.3a~~. See also 20 U.S.C. §7912. ISBE maintains a list of persistently dangerous schools. Districts having only one school may substitute the following for this paragraph:

The unsafe school choice option provided in State law permits students to transfer to another school within the District in certain situations. This transfer option is unavailable in this District because the District has only one school or attendance center. A student, who would otherwise have qualified for the choice option, or such a student's parent/guardian, may request special accommodations from the Superintendent or designee.

Districts with each grade in only one attendance center may substitute the following for this paragraph:

The unsafe school choice option provided in State law permits students to transfer to another school within the District in certain situations. This transfer option is unavailable in this District because each grade is in only one attendance center. A student, who would otherwise have qualified for the choice option, or such a student's parent/guardian, may request special accommodations from the Superintendent or designee.

**14** 225 ILCS 320/35.5, added by P.A. 99-922 and amended by P.A. 100-103. Requires that each source of potable water in school buildings constructed on or before 1-1-00, which may be occupied by more than 10 children in grades pre-K through 5, be tested for lead. Testing for buildings constructed prior to 1-1-87 must be conducted by 12-31-17. 225 ILCS 320/35.5(c)(4). Testing for buildings constructed between 1-2-87 and 1-1-00 must be conducted by 12-31-18. Id. By 6-30-19, the IDPH will determine whether it is necessary and appropriate to require testing for buildings constructed after 1-1-00. 225 ILCS 320/35.5(d).

Boards may, by resolution, use excess taxes levied for fire prevention, safety, energy conservation, and school security purposes for sampling lead in drinking water in schools and for repair and mitigation due to lead levels in the drinking water supply. 105 ILCS 5/17-2.11(j)(1), amended by P.A. 99-922.

**15** 225 ILCS 320/35.5(e) requires the IDPH to post on its website guidance on mitigation actions for lead in drinking water, and ongoing water management practices, in schools. On 5-9-17, the IDPH posted *Mitigation Strategies for Lead Found in School Drinking Water* at: [www.dph.illinois.gov/sites/default/files/publications/school-lead-mitigation-strategies-050917.pdf](http://www.dph.illinois.gov/sites/default/files/publications/school-lead-mitigation-strategies-050917.pdf). **Note:** Page 2 of *Mitigation Strategies* states "IDPH is requiring the mitigation strategies and requirements contained in this guidance document to be followed for all plumbing fixtures identified with any level of lead," however the statute does not authorize the IDPH to impose such additional requirements.

**16** If any samples taken in the school exceed five parts per billion, a district must provide individual notification of sampling results, via written or electronic communication, to parent(s)/guardian(s) of all enrolled students that must include: (1) the corresponding sampling location within the school building; and (2) the U.S. Environmental Protection Agency's website for information about lead in drinking water at: [www.epa.gov/ground-water-and-drinking-water/basic-information-about-lead-drinking-water](http://www.epa.gov/ground-water-and-drinking-water/basic-information-about-lead-drinking-water). 225 ILCS 320/35.5(c)(3). If any samples taken in the school are at or below five parts per billion, notification may be made in the same manner or by posting on the school's website. Id.

## Emergency Closing

The Superintendent is authorized to close school(s) in the event of hazardous weather or other emergency that threatens the safety of students, staff members, or school property. 17

LEGAL REF.: 105 ILCS 5/10-20.2, 5/10-20.56, 5/18-12, ~~and 5/18-12.5~~, ~~and~~  
105 ILCS 128/, School Safety Drill Act, implemented by 29 Ill.Admin.Code Part  
1500.  
210 ILCS 74/, Physical Fitness Facility Medical Emergency Preparedness Act.  
225 ILCS 320/35.5, Ill. Plumbing License Law.

CROSS REF.: 4:110 (Transportation), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 4:180 (Pandemic Preparedness), 5:30 (Hiring Process and Criteria), 8:30 (Visitors to and Conduct on School Property), 8:100 (Relations with Other Organizations and Agencies)

---

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

17 When a school is closed or its starting time is delayed due to adverse weather conditions or a health or safety threat, the district may count a partial day of attendance as a full day for State aid purposes, provided: (1) at least one hour of instruction was provided or the normal start time was delayed; and (2) the superintendent provides the Regional Superintendent or the Suburban Cook County Intermediate Service Center, whichever is appropriate, with a written report in support of the partial day within 30 days. ~~(105 ILCS 5/18-12).~~

105 ILCS 5/18-12.5 governs claiming state aid if a district closes one or more schools, but not all schools, during the public health emergency, as determined by ISBE in consultation with the ~~IDPH~~ Ill. Dept. of Public Health.

## General Personnel

### Equal Employment Opportunity and Minority Recruitment 1

The School District shall provide equal employment opportunities<sup>2</sup> to all persons regardless of their race; color; creed; religion;<sup>3</sup> national origin; sex;<sup>4</sup> sexual orientation;<sup>5</sup> age;<sup>6</sup> ancestry; marital

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

<sup>1</sup> Federal and State law (see the policy's ~~L~~Legal ~~R~~References) require that all districts have a policy on equal employment opportunities and control this policy's content. **This is a complex, confusing, and highly litigated area of the law; consult the board attorney for advice on the application of these laws to specific fact situations.**

<sup>2</sup> *Equal employment opportunities* apply to virtually all terms and conditions of employment, e.g., discharge, hire, promotion, pay, demotion, and benefits (see ~~L~~Legal ~~R~~References). The Illinois Constitution protects the following categories from discrimination in employment: race, color, creed, national ancestry, sex, and handicap. (~~Art. I, §§17, 18, and 19~~). The Ill. Human Rights Act (~~I~~HRA) protects the following categories from discrimination in employment: race, color, religion, ~~sex~~, national origin, ancestry, age, ~~sex~~, marital status, physical or mental disability, military status, order of protection status, sexual orientation, pregnancy, ~~and~~ unfavorable discharge from military service, ~~and citizenship status~~. (~~775 ILCS 5/1-102 and 5/1-103~~).

The Equal Employment Opportunities Act (~~EEOA, a.k.a. Title VII of the Civil Rights Act of 1964~~) prohibits discrimination because of an individual's race, color, religion, sex, or national origin. (~~42 U.S.C. §2000e et seq., amended by The Lilly Ledbetter Fair Pay Act of 2009 (LLFPA), Pub.L. 111-2~~).

The ~~Lilly Ledbetter Fair Pay Act~~LLFPA clarifies that a discriminatory compensation decision or other practice occurs each time an employee is paid or receives a last benefits check pursuant to the discriminatory compensation decision as opposed to only from the time when the discriminatory compensation decision or other practice occurred. The Act has no legislative history available to define what the phrase *or other practice* might mean beyond a discriminatory compensation decision.

While not exhaustive, other laws protecting these and additional classifications are named in subsequent footnotes.

<sup>3</sup> ~~Section 2-102 of the IHRA, amended by P.A. 100-100, contains a new religious discrimination subsection. It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer's business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. 775 ILCS 5/2-102(E-5). Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. Id.~~

In addition to the ~~Ill. Human Rights Act~~IHRA and the federal ~~Equal Employment Opportunities Act~~EEOA (discussed in f/n 2), see the Religious Freedom Restoration Act. (~~775 ILCS 35/~~).

<sup>4</sup> In addition to the ~~Ill. Human Rights Act~~IHRA and the federal ~~Equal Employment Opportunities Act~~EEOA (discussed in f/n 2), see Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq. The federal Equal Pay Act prohibits an employer from paying persons of one gender less than the wage paid to persons of the opposite gender for equal work. (~~29 U.S.C. §206(d). The State Equal Pay Act of 2003, 820 ILCS 112/~~, offers greater protection by prohibiting the payment of wages to one gender less than another gender *for the same or substantially similar work*. ~~820 ILCS 112/~~. The ~~Lilly Ledbetter Fair Pay Act~~,LLFPA now defines *date of underpayment* as each time wages are underpaid. Employees have one year from the time they become aware of the underpayment to file a complaint with the Ill. Dept. of Labor (~~IDOL~~). (~~820 ILCS 112/15(b)~~).

<sup>5</sup> ~~Illinois Human Rights Act~~IHRA, ~~775 ILCS 5/1-101 et seq.~~ *Sexual orientation* means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity; it does not include a physical or sexual attraction to a minor by an adult. (~~775 ILCS 5/1-103(O-1)~~).

<sup>6</sup> Age Discrimination in Employment Act (ADEA), 29 U.S.C. §621 et seq.), amended by ~~The Lilly Ledbetter Fair Pay Act, Pub.L. 111-2~~LLFPA (see f/n 2). 29 C.F.R. Part 1625, amended the ~~U.S. Equal Employment Opportunity Commission (EEOC)~~ regulations under ADEA to reflect the U.S. Supreme Court's decision in ~~General Dynamic Systems, Inc. v. Cline~~, 540 U.S. 581 (2004), holding the ADEA to permit employers to favor older workers because of age. Thus, favoring an older person over a younger person is not unlawful discrimination, even when the younger person is at least 40 years old.

status;<sup>7</sup> arrest record;<sup>8</sup> military status; order of protection status;<sup>9</sup> unfavorable military discharge;<sup>10</sup> citizenship status provided the individual is authorized to work in the United States;<sup>11</sup> use of lawful products while not at work;<sup>12</sup> being a victim of domestic or sexual violence;<sup>13</sup> genetic information;<sup>14</sup> physical or mental handicap or disability, if otherwise able to perform the essential functions of the job with reasonable accommodation;<sup>15</sup> pregnancy, childbirth, or related medical conditions;<sup>16</sup> credit

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

<sup>7</sup> 105 ILCS 5/10-22.4 and 775 ILCS 5/1-103(Q). The term *marital status* means an individual's legal status of being married, single, separated, divorced, or widowed. ~~775 ILCS 5/1-103(J)~~. This statutory definition does not encompass the identity of one's spouse. Thus, school districts may adopt no-spouse policies. Boaden v. Dept. of Law Enforcement, 664 N.E.2d 61-171 Ill.2d 230 (Ill. 1996).

<sup>8</sup> Districts may not make employment decisions on the basis of arrest history, but may use job-disqualifying criminal convictions. ~~775 ILCS 5/2-103~~. The Job Opportunities for Qualified Applicants Act, ~~820 ILCS 75/~~, prohibits an employer from asking about a criminal record until the employer determines that the applicant is qualified for the position; however, this does not apply when employers are required to exclude applicants with certain criminal convictions from employment. School employers should limit their requests for criminal convictions to *job-disqualifying* convictions. 820 ILCS 75/15. See also the ~~EEOC's U.S. Equal Employment Opportunity Commission's~~ guidance, *Consideration of Arrest and Conviction Records in Employment Decisions*, at: [www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm).

<sup>9</sup> 775 ILCS 5/1-103(Q). The term *order of protection status* means a person protected under an order of protection issued pursuant to the Illinois Domestic Violence Act of 1986 or an order of protection issued by a court of another state. ~~775 ILCS 5/1-103(K-5)~~.

<sup>10</sup> *Military status* means a person's status on active duty or in status as a veteran in the U.S. Armed Forces, veteran of any reserve component of U.S. Armed forces, or current member or veteran of the Illinois Army National Guard or Illinois Air National Guard. ~~775 ILCS 5/1-103(J-1)~~. *Unfavorable military discharge* does not include those characterized as RE-4 or *dishonorable*. ~~(Id.)~~ 775 ILCS 5/1-103(P). The Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. §§4301 et seq., prohibits employers from discriminating or retaliating against any person for reasons related to past, present, or future service in a *uniformed service*. 38 U.S.C. §§4301 et seq. See f/n 9 in policy 5-30, *Hiring Process and Criteria*.

<sup>11</sup> 775 ILCS 5/1-102(C). According to the Immigration Reform and Control Act of 1986, all employers must verify that employees are either U.S. citizens or authorized to work in the U.S. 8 U.S.C. §§1324(a) et seq.

<sup>12</sup> The Right to Privacy in the Workplace Act ~~820 ILCS 55/5~~ prohibits discrimination based on use of lawful products, e.g., alcohol and tobacco, off premises during non-working hours. 820 ILCS 55/5.

<sup>13</sup> Victims' Economic Security and Safety Act, 820 ILCS 180/30. An employer is prohibited from discriminating against any individual (e.g. an applicant for employment) because he or she "is an employee whose employer is subject to Section 21 of the Workplace Violence Prevention Act." The Workplace Violence Prevention Act allows an employer to seek a *workplace protection restraining order* when there is a credible threat of violence at the workplace. 820 ILCS 275/. Section 21 requires the employer seeking a *workplace protection restraining order* to notify the employee who is a victim of unlawful violence. 820 ILCS 275/21.

<sup>14</sup> Illinois' Genetic Information Protection Act (GIPA) ~~(410 ILCS 513/25)~~ and Title II of Genetic Information Nondiscrimination Act (GINA) ~~(42 U.S.C. §2000ff et seq.)~~. Both laws protect job applicants and current and former employees from discrimination based on their genetic information. Note that GIPA provides greater protections to Illinois employees than Title II of GINA. GIPA, amended by P.A. 100-396, eff. 1-1-18, prohibits employers from penalizing employees who do not disclose genetic information or do not choose to participate in a program requiring disclosure of the employee's genetic information. See f/n 79 in 2:260, *Uniform Grievance Procedure* for the definition of genetic information and a detailed description of both statutes, including of Title I of GINA affecting the use of genetic information in health insurance. In 2011, the EEOC published an informative guidance letter, ADA & GINA: Incentives for Workplace Wellness Program, at: [www.eeoc.gov/eeoc/foia/letters/2011/ada\\_gina\\_incentives.html](http://www.eeoc.gov/eeoc/foia/letters/2011/ada_gina_incentives.html). Consult the board attorney for guidance regarding specific application of these laws and how they integrate with other related laws, e.g., the Family Medical Leave Act, the Americans with Disabilities Act, and other State laws governing time off for sickness and workers' compensation.

<sup>15</sup> Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§12101 et seq., amended by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA), Pub. L. 110-325) and modified by the LLFPA Lilly Ledbetter Fair Act, Pub. L. 111-2; Rehabilitation Act of 1973, (29 U.S.C. §791 et seq.).

<sup>16</sup> 775 ILCS 5/2-102(I). Employers must provide reasonable accommodations to employees with conditions related to pregnancy or childbirth. ~~775 ILCS 5/2-102(J)~~. Employers are required to post a notice summarizing the right to be free from unlawful discrimination and the right to certain reasonable accommodations. ~~Id.~~ at 775 ILCS 5/2-102(K). The ~~Ill. Dept. of Labor~~ IDOL is required to prepare such a notice, retrievable from its website, which employers may use.



history, unless a satisfactory credit history is an established bona fide occupational requirement of a particular position;<sup>17</sup> or other legally protected categories.<sup>18 19 20 21</sup> No one will be penalized solely for his or her status as a registered qualifying patient or a registered designated caregiver for purposes of the Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/. <sup>22</sup>

Persons who believe they have not received equal employment opportunities should report their claims to the Nondiscrimination Coordinator and/or a Complaint Manager for the Uniform Grievance Procedure. These individuals are listed below. No employee or applicant will be discriminated or retaliated against because he or she: (1) requested, attempted to request, used, or attempted to use a reasonable accommodation as allowed by the Illinois Human Rights Act, or (2) initiated a complaint,

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

Federal law also prohibits employers from discriminating against employees and applicants on the basis of pregnancy, childbirth, or related medical conditions, (42 U.S.C. §2000e(k)). Pregnant workers with pregnancy-related impairments may have disabilities for which they may be entitled to reasonable accommodation under the ADA, (42 U.S.C. §12112). Guidance from the U.S. Equal Employment Opportunity Commission EEOC (7-14-14) is available at: [www.eeoc.gov/laws/guidance/pregnancy\\_qa.cfm](http://www.eeoc.gov/laws/guidance/pregnancy_qa.cfm).

<sup>17</sup> Employee Credit Privacy Act, 820 ILCS 70/. Unless a satisfactory credit history is an *established bona fide occupational requirement* of a particular position, an employer may not: (1) refuse to hire, discharge, or otherwise discriminate against an individual with respect to employment because of the individual's credit history or credit report; (2) inquire about an applicant's or employee's credit history; or (3) order or obtain an applicant's or employee's credit report from a consumer reporting agency. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more.

<sup>18</sup> Optional sentence (775 ILCS 5/1-103 and 29 U.S.C. §631):

Age, as used in this policy, means the age of a person who is at least 40 years old.

<sup>19</sup> Optional provision (29 U.S.C. §705(10)(A), (B) and 42 U.S.C. §12114; 29 U.S.C. §705(20)(D); 29 U.S.C. §705(20)(I)):

*Handicap and disability*, as used in this policy, excludes persons:

1. Currently using illegal drugs ~~(29 U.S.C. §705(10)(A) and (B), and 42 U.S.C. §12114)~~;
2. Having a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, are unable to perform the duties of the job ~~29 U.S.C. §705(20)(D)~~; or
3. Whose current alcohol or drug use prevents them from performing the job's duties or constitutes a direct threat to the property or safety of others. ~~Id. at 705(20)(C)(ii)(I)~~.

Persons who have successfully completed or are participating in a drug rehabilitation program are considered disabled. ~~Id. at 705(20)(I)~~.

<sup>20</sup> Districts may not make residency in the district a condition of employment for teachers or educational support personnel, (105 ILCS 5/24-4.1, ~~and 5/10-23.5~~). This ban on residency requirements for teachers applies only to instructional personnel, and not, for example, to assistant principals. Owen v. Kankakee School-Sch. Dist., 632 N.E.2d 1073, 261 Ill.App.3d 298 (Ill.App.3, 3rd Dist. 1994). Districts also may not ask an applicant, or the applicant's previous employer, whether the applicant ever received, or filed a claim for, benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act, (820 ILCS 55/10(a)). Districts are also prohibited from requiring, requesting, or coercing an employee or potential employee to provide a user name and password or any password or other related account information to gain or demand access to his or her personal online account, ~~(Id. at 820 ILCS 55/10(b), amended by P.A. 99-610, eff. 1-1-17)~~. While the law does not prohibit employers from viewing public information, consult the board attorney before engaging in this practice.

<sup>21</sup> School districts must accommodate mothers who choose to continue breastfeeding after returning to work. See the Right to Breastfeed Act, 740 ILCS 137/; Nursing Mothers in the Workplace Act, 820 ILCS 260/; and Fair Labor Standards Act, 29 U.S.C. §207(r)(1). See sample language for a personnel handbook in 5:10-AP, ~~Administrative Procedure Workplace Accommodations for Nursing Mothers~~.

<sup>22</sup> 410 ILCS 130/40; 77 Ill.Admin.Code Part 946. To legally use medical cannabis, an individual must first become a *registered qualifying patient*. Their use of cannabis (e.g. permissible locations) is governed by the Compassionate Use of Medical Cannabis Pilot Program Act, (410 ILCS 130/). There are many situations in which no one, even a registered qualifying patient, may possess or use cannabis, including in a school bus or on the grounds of any preschool, or primary or secondary school, (410 ILCS 130/30(a)(2), ~~&~~-(3). See ~~policy~~-5:50, *Drug- and Alcohol-Free Workplace; Tobacco Prohibition*.

was a witness, supplied information, or otherwise participated in an investigation or proceeding involving an alleged violation of this policy or State or federal laws, rules or regulations, provided the employee or applicant did not make a knowingly false accusation nor provide knowingly false information. 23

### Administrative Implementation

The Superintendent shall appoint a Nondiscrimination Coordinator for personnel who shall be responsible for coordinating the District's nondiscrimination efforts. The Nondiscrimination Coordinator may be the Superintendent or a Complaint Manager for the Uniform Grievance Procedure. The Superintendent shall insert into this policy the names, addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers. 24

---

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

23 775 ILCS 5/6-101. Discrimination on the basis of a request for or use of a reasonable accommodation is a civil rights violation under the ~~Ill. Human Rights Act (IHRA)~~. ~~(Id.)~~. Most discrimination laws prohibit retaliation against employees who oppose practices made unlawful by those laws, including, for example, the ~~EEOA~~ Equal Employment Opportunities Act, Title IX, ~~ADA~~ Americans with Disabilities Act, ~~ADEA~~ Age Discrimination in Employment Act, Victims' Economic Security and Safety Act, the Ill. Equal Pay Act, and the Ill. Whistleblower Act.

The Ill. Whistleblower Act (IWA) specifically prohibits employers from retaliating against employees for: (1) disclosing information to a government or law enforcement agency (740 ILCS 174/15~~(ab)~~); (2) disclosing information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information reveals a violation of a State or federal law, rule or regulation (740 ILCS 174/15~~(ba)~~); (3) refusing to participate in an activity that would result in a violation of a State or federal law, rule, or regulation, including, but not limited to, violations of the Freedom of Information Act (740 ILCS 174/20); and (4) disclosing or attempting to disclose public corruption or wrongdoing (740 ILCS 174/20.1). The definition of retaliation is expanded to include *other retaliation and threatening retaliation*. ~~(740 ILCS 174/20.1, and 20.2).~~

The Ill. False Claims Act, ~~740 ILCS 175/~~, defines *State* to include school districts. 740 ILCS 175/2(a). Thus, boards may seek a penalty from a person for making a false claim for money or property. ~~(740 ILCS 175/4)~~. For information regarding the ~~Ill. Whistleblower Act (IWA)~~ and the tort of retaliatory discharge, ~~see~~ Thomas v. Guardsmark, 487 F.3d 531 (7<sup>th</sup> Cir., 2007) (discussing the elements of retaliatory discharge and ~~Ill. Whistleblower Act (IWA)~~); ~~and~~ Sherman v. Kraft General Foods, Inc., 651 N.E.2d 708 272 Ill.App.3d 833 (Ill.App.4<sup>th</sup> 4<sup>th</sup> Dist., 1995) (finding employee who reported asbestos hazard had a cause of action for retaliatory discharge).

24 Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. The U.S. Dept. of Education's Office for Civil Rights prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (a) a Dear Colleague Letter on Title IX Coordinators; (b) a Letter to Title IX Coordinators that provides them with more information about their role; and (c) a Title IX Resource Guide that includes an overview of Title IX's requirements with respect to several key issues. See [www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html](http://www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html).

~~While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. Thus the policy should be adopted with blanks for the superintendent to fill in later. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored. An email address is optional but may facilitate reporting. A policy should not be adopted with a person's name in it; rather, the identifying information can be added and amended as necessary.~~

**Nondiscrimination Coordinator<sup>25</sup>:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

The Superintendent shall also use reasonable measures to inform staff members and applicants that the District is an equal opportunity employer, such as, by posting required notices and including this policy in the appropriate handbooks. <sup>26</sup>

**Minority Recruitment <sup>27</sup>**

The District will attempt to recruit and hire minority employees. The implementation of this policy may include advertising openings in minority publications, participating in minority job fairs, and recruiting at colleges and universities with significant minority enrollments. This policy, however,

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

<sup>25</sup> *Sample policy 2:260, Uniform Grievance Procedure, states that a district’s Nondiscrimination Coordinator also serves as its Title IX Coordinator. Best practice is that throughout the district’s board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.*

<sup>26</sup> In addition to notifying employees of the Uniform Grievance Procedure, a district must notify them of the person(s) designated to coordinate the district’s compliance with Title IX and the Rehabilitation Act of 1973, ~~34 C.F.R. §§106.8(a), and 104.8(a).~~ The Nondiscrimination Coordinator may be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as a Complaint Manager for policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information, to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and school board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

<sup>27</sup> All districts must have a policy on minority recruitment, ~~(105 ILCS 5/10-20.7a).~~ Unlike minority recruitment efforts, affirmative action plans are subject to significant scrutiny because of the potential for reverse discrimination. The U.S. Constitution’s guarantee of equal protection prohibits school districts from using racial hiring quotas without evidence of past discrimination. See 29 C.F.R. §1608.1 *et seq.* (~~Equal Employment Opportunity Commission~~ EEOC’s guidelines for affirmative action plans); *Wygant v. Jackson Board of Education*, ~~406 S.Ct. 184~~ 476 U.S. 267 (1986) (The goal of remedying societal discrimination does not justify race-based layoffs.); *City of Richmond v. J.A. Croson Co.*, ~~409 S.Ct. 706~~ 488 U.S. 469 (1989) (Minority contractor quota struck; quotas must be narrowly tailored to remedy past discrimination and the city failed to identify the need for remedial action and whether race-neutral alternatives existed.).

The ~~Ill. Human Rights Act, IHRA 775 ILCS 5/1-101.1,~~ states that it shall not be construed as requiring any employer to give preferential treatment or special rights based on sexual orientation or to implement affirmative action policies or programs based on sexual orientation. ~~775 ILCS 5/1-101.1.~~

does not require or permit the District to give preferential treatment or special rights based on a protected status without evidence of past discrimination.

LEGAL REF.: 8 U.S.C. §1324a et seq., Immigration Reform and Control Act.  
20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972, implemented by 34 C.F.R. Part 106.  
29 U.S.C. §206(d), Equal Pay Act.  
29 U.S.C. §621 et seq., Age Discrimination in Employment Act.  
29 U.S.C. §791 et seq., Rehabilitation Act of 1973.  
38 U.S.C. §4301 et seq., Uniformed Services Employment and Reemployment Rights Act (1994).  
42 U.S.C. §1981 et seq., Civil Rights Act of 1991.  
42 U.S.C. §2000e et seq., ~~Equal Employment Opportunities Act~~ (Title VII of the Civil Rights Act of 1964), implemented by 29 C.F.R. Part 1601.  
42 U.S.C. §2000ff et seq., Genetic Information Nondiscrimination Act of 2008.  
42 U.S.C. §2000d et seq., Title VI of the Civil Rights Act of 1964.  
42 U.S.C. §2000e(k), Pregnancy Discrimination Act.  
42 U.S.C. §12111 et seq., Americans ~~W~~with Disabilities Act, Title I.  
Ill. Constitution, Art. I, §§17, 18, and 19.  
105 ILCS 5/10-20.7, 5/20.7a, 5/21.1, 5/22.4, 5/23.5, 5/22-19, 5/24-4, 5/24-4.1, and 5/24-7.  
410 ILCS 130/40, Compassionate Use of Medical Cannabis Pilot Program Act.  
410 ILCS 513/25, Genetic Information Protection Act.  
740 ILCS 174/, Ill. Whistleblower Act.  
775 ILCS 5/1-103, 5/2-102, 103, and 5/6-101, Ill. Human Rights Act.  
775 ILCS 35/5, Religious Freedom Restoration Act.  
820 ILCS 55/10, Right to Privacy in the Workplace Act.  
820 ILCS 70/, Employee Credit Privacy Act.  
820 ILCS 75/, Job Opportunities for Qualified Applicants Act.  
820 ILCS 112/, Ill. Equal Pay Act of 2003.  
820 ILCS 180/30, Victims' Economic Security and Safety Act.  
820 ILCS 260/, Nursing Mothers in the Workplace Act.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 5:40 (Communicable and Chronic Infectious Disease), 5:50 (Drug- and Alcohol-Free Workplace; Tobacco Prohibition), 5:70 (Religious Holidays), 5:180 (Temporary Illness or Temporary Incapacity), 5:200 (Terms and Conditions of Employment and Dismissal), 5:250 (Leaves of Absence), 5:270 (Employment, At-Will, Compensation, and Assignment), 5:300, (Schedules and Employment Year), 5:330 (Sick Days, Vacation, Holidays, and Leaves), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 8:70 (Accommodating Individuals with Disabilities)

## General Personnel

### Workplace Harassment Prohibited 1

The School District expects the workplace environment to be productive, respectful, and free of unlawful discrimination, including harassment. District employees shall not engage in harassment or abusive conduct on the basis of an individual's race, religion<sup>2</sup>, national origin, sex, sexual orientation, age, citizenship status, disability, or other protected status identified in Board policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. Harassment of students, including, but not limited to, sexual harassment, is prohibited by Board policy 7:20, *Harassment of Students Prohibited*.

### Sexual Harassment Prohibited 3

The School District shall provide a workplace environment free of unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct, or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law.

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

<sup>1</sup> State or federal law controls this policy's content. Federal law requires districts to take action to prevent~~eliminate~~ sexual harassment and to disseminate a policy regarding its prohibition of sex discrimination. (29 C.F.R. §1604.11(f); 34 C.F.R. §106.9). Harassment based on a protected status is a form of discrimination that violates many State and federal laws (see the policy's Legal References).

Workplace harassment policies have typically focused on *sexual* harassment since it receives the most attention. However, the broad prohibitions against discrimination in State and federal civil rights laws will cover harassing conduct that is motivated by animus against any protected status. See *Porter v. Erie Foods International, Inc.*, 576 F.3d 629 (7th Cir. 2009) (recognizing a cause of action for race harassment). For a list of protected statuses, see policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. This policy prohibiting harassment has a separate section on sexual harassment because of the extensive statutory and case law regarding it.

An employer is liable under Title VII of the Civil Rights Act of 1964 (Title VII) for an employee's harassment of a co-worker if the employer was negligent with respect to the offensive behavior by, for example, failing to take remedial action when it knew or should have known about the harassment. 42 U.S.C. §2000e et seq. However, when the perpetrator is the victim's supervisor, the employer will be vicariously liable for the supervisor's actions. Lack of knowledge of a supervisor's misconduct is no defense. *Burlington Industries v. Ellerth*, 418 S.Ct. 2257524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 418 S.Ct. 2275524 U.S. 775 (1998). A *supervisor* is someone who has the authority to demote, discharge, or take other negative job action against the victim. *Vance v. Ball State University*, No. 11-556 (U.S. Sup. Ct. 6/24/13)133 S.Ct. 2434 (2013). Note that the Ill. Human Rights Act, (IHRA, 775 ILCS 5/2-102(D)), imposes strict liability on the employer when an employee has been sexually harassed by supervisory personnel regardless of whether the harasser has any authority over the complainant. *Sangamon County Sheriff's Dept. v. Ill. Human Rights Com'n*, 908 N.E.2d 39233 Ill.2d 125 (Ill., 2009).

Not all harassing conduct is unlawful discrimination, even if it is disruptive and hurtful. If a board wants to include language in this policy prohibiting employees from engaging in intimidating or offensive conduct that is *not* a civil rights violation, it should consult the board attorney.

2 Section 2-102 of the IHRA, amended by P.A. 100-100, contains a new religious discrimination subsection. It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer's business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. 775 ILCS 5/2-102(E-5). Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. Id.

<sup>3</sup> The ~~Ill. Human Rights Act~~IHRA (775 ILCS 5/2-102(D)) provides that sexual harassment is a civil rights violation: For any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment; provided, that an employer shall be responsible for sexual harassment of the employer's employees by non-employees or non-managerial and non-supervisory employees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures.

District employees shall not make unwelcome sexual advances or request sexual favors or engage in any unwelcome conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.<sup>4</sup> Sexual harassment prohibited by this policy includes, but is not limited to, verbal or physical conduct. The terms intimidating, hostile, or offensive include, but are not limited to, conduct that has the effect of humiliation, embarrassment, or discomfort. Sexual harassment will be evaluated in light of all the circumstances.

#### Making a Complaint; Enforcement <sup>5</sup>

A violation of this policy may result in discipline, up to and including discharge. Any person making a knowingly false accusation regarding harassment will likewise be subject to disciplinary action, up to and including discharge. An employee's employment, compensation, or work assignment shall not be adversely affected by complaining or providing information about harassment. Retaliation against employees for bringing bona fide complaints or providing information about harassment is prohibited (see Board policy 2:260, *Uniform Grievance Procedure*). <sup>6</sup>

Aggrieved persons, who feel comfortable doing so, should directly inform the person engaging in the harassing conduct or communication that such conduct or communication is offensive and must stop.

Employees should report claims of harassment to the Nondiscrimination Coordinator and/or use the Board policy 2:260, *Uniform Grievance Procedure*. Employees may choose to report to a person of the employee's same sex. There are no express time limits for initiating complaints and grievances under this policy; however, every effort should be made to file such complaints as soon as possible, while facts are known and potential witnesses are available.

#### Whom to Contact with a Report or Complaint <sup>7</sup>

The Superintendent shall insert into this policy the names, addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.

---

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

<sup>4</sup> This definition is from State and federal law, §775 ILCS 5/2-101(E) and 29 C.F.R. §1604.11. The harassing conduct must be severe or pervasive so as to alter the conditions of the employee's work environment by creating a hostile or abusive situation. Williams v. Waste Management, 361 F.3d 1021 (7th Cir. 2004). The surrounding circumstances, expectations, and relationships will distinguish between teasing or rough-housing and conduct that a reasonable person would find severely hostile or abusive. In addition, while same-sex gender harassment claims are actionable, the victim must show that s/he suffered disadvantageous employment conditions to which members of the other sex were not exposed. Oncale v. Sundown Offshore Services, 118 S.Ct. 998 535 U.S. 75 (1998).

<sup>5</sup> See Berry v. Delta Airlines, 260 F.3d 803, 811 (7th Cir. 2001) ("If an employer takes reasonable steps to discover and rectify the harassment of its employees ... it has discharged its legal duty.")

In addition to violating other civil rights laws, a school district violates the *public accommodations* article in the ~~III~~ Human Rights Act (HRA) if it fails to take corrective action to stop severe or pervasive harassment, §775 ILCS 5/5-102 and 5/5-102.2, amended by P.A. 96-814.

<sup>6</sup> Crawford v. Metro. Gov't of Nashville & Davidson County, 129 S.Ct. 846 555 U.S. 271 (2009) (holding the anti-retaliation provision in ~~Title VII~~ EEOA protects an employee who spoke out about harassment, not only on his or her own initiative, but also in answering questions during an employer's internal investigation).

<sup>7</sup> Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. A policy should not be adopted with a person's name in it; rather, the identifying information can be added and amended as necessary.

**Nondiscrimination Coordinator:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

The Superintendent shall also use reasonable measures to inform staff members and applicants of this policy, which shall include reprinting this policy in the appropriate handbooks. 8

LEGAL REF.: Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq.; implemented by 29 C.F.R. §1604.11.  
 Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq.; implemented by 34 C.F.R. Part 106§1604.11.  
 Ill. Human Rights Act, 775 ILCS 5/2-101(E), 5/2-102(D), 5/2-102(E-5), 5/5-102, and 5/5-102.2.  
 56 Ill. Admin.Code Parts 2500, 2510, 5210, and 5220.  
Burlington Industries v. Ellerth, 118 S.Ct. 2257524 U.S. 742 (1998).  
Crawford v. Metro. Gov't of Nashville & Davidson County, 129 S. Ct. 846555 U.S. 271 (2009).  
Faragher v. City of Boca Raton, 118 S.Ct. 2275524 U.S. 775 (1998).  
Franklin v. Gwinnett Co. Public Schools, 112 S.Ct. 1028503 U.S. 60 (1992).  
Harris v. Forklift Systems, 114 S.Ct. 367510 U.S. 17 (1993).  
Jackson v. Birmingham Board of EducationEduc., 125 S.Ct. 1497544 U.S. 167 (2005).  
Meritor Savings Bank v. Vinson, 106 S.Ct. 2399477 U.S. 57 (1986).  
Oncale v. Sundown Offshore Services, 118 S.Ct. 998523 U.S. 75 (1998).  
Porter v. Erie Foods International, Inc., 576 F.3d 629 (7th Cir. 2009).

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

8 A district must notify employees of the grievance procedure and the person(s) designated to coordinate the district's compliance with Title IX, 34 C.F.R. §§106.8(a). The nondiscrimination coordinator can be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as the complaint manager in policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

Sangamon County Sheriff's Dept. v. Ill. Human Rights Com'n, ~~908 N.E.2d 39233~~ Ill.2d 125 (Ill., 2009).

Vance v. Ball State University, 133 S. Ct. 2434 (2013).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:10 (Equal Employment Opportunity and Minority Recruitment), 7:20 (Harassment of Students Prohibited)



## General Personnel

### Abused and Neglected Child Reporting <sup>1</sup>

Any District employee who suspects or receives knowledge that a student may be an abused or neglected child or, for a student aged 18 through 21, an abused or neglected individual with a disability-<sup>2</sup>, shall: (1) immediately report or cause a report to be made to the Illinois Department of Children and Family Services (DCFS) on its Child Abuse Hotline 1-800-25-ABUSE (1-800-252-2873)(within Illinois); or 1-217-524-2606 (outside of Illinois); or 1-800-358-5117 (TTY), and (2) follow directions given by DCFS concerning filing a written report within 48 hours with the nearest DCFS field office.-<sup>3</sup> Any District employee who believes a student is in immediate danger of harm, shall first call 911. The employee shall also promptly notify the Superintendent or Building Principal that a report has been made.-<sup>4</sup> The Superintendent or Building Principal shall immediately coordinate

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

<sup>1</sup> State or federal law controls this policy's content. The Abused and Neglected Child Reporting Act (ANCRA, 325 ILCS 5/) requires school personnel to make an immediate report or cause a report to be made to DCFS; it states that they "may also notify the person in charge of [the] school[.]" (325 ILCS 5/4). If the report involves a *disabled adult student*, employees should expect DCFS to instruct them to call the Ill. Dept. of Human Services Office (DHS) office of the Inspector General's statewide 24 hour toll-free telephone number at 1-800-843-6154 (within Illinois: 1-866-324-5553 (TTY/Nextalk); or 711 (Illinois Relay)). (325 ILCS 5/4.4a and 20 ILCS 1305/1-17(b)). Reports involving a disabled adult student may be made directly to DHS; however, for simplicity, and to preserve a superintendent's duty to disclose certain reports involving an employee or former district employee (see discussion in f/n 129 below) and the immunity for such disclosures, the sample policy directs the initial phone call involving a disabled adult student to DCFS.

Abuse and neglect are defined in 325 ILCS 5/3 and, for disabled adult students in 20 ILCS 1305/1-17(b). Abuse may be generally understood as any physical or mental injury or sexual abuse inflicted on a child or disabled adult student other than by accidental means or creation of a risk of such injury or abuse by a person who is responsible for the child's or disabled adult student's welfare. Neglect may be generally understood as abandoning a child or disabled adult student or failing to provide the proper support, education, medical, or remedial care required by law by one who is responsible for the child's or disabled adult student's welfare.

Any person required by law to report abuse and neglect who willfully fails to report is guilty of a Class A misdemeanor. A teaching ~~license~~certificate may be suspended for willful failure to report suspected child abuse or neglect as required by law. (105 ILCS 5/21B-75 and 20 ILCS 1305/1-17(k)(1)). 20 ILCS 1305/1-17(k)(1) allows mandated reporters for disabled adults four hours to report after the initial discovery of the incident, allegation, or suspicion of any one or more of the following: mental abuse, physical abuse, sexual abuse, neglect, or financial exploitation.

District employees who make a report in good faith receive immunity, except in cases of willful or wanton misconduct. See 325 ILCS 5/4 and 9. Further, for the purpose of any proceedings, civil or criminal, good faith of the person making the report is presumed. Id.

<sup>2</sup> State child and disabled adult protection laws define the same class of individuals differently, but with the same goal: to protect a disabled adult student, not living in a DCFS licensed facility, who is still finishing school with an Individual Education Plan (IEP). The ~~Ill.~~Dept. of Human Services Act, (DHS Act 20 ILCS 1305/1-17(b)) defines "adult student with a disability" as an adult student, age 18 through 21, inclusive (through the day before the student's 22nd birthday), with an IEP other than a resident of a facility licensed by DCFS. 20 ILCS 1305/1-17(b). This statutory definition is the basis for this sample policy's language. For purposes of the discussions in f/ns 1 ~~and~~ 10, the term "adult student with a disability" is shortened to *disabled adult student*.

For elementary districts, delete the following phrase from the first sentence: "~~or, for a student aged 18 through 21, an abused or neglected individual with a disability.~~"

<sup>3</sup> 325 ILCS 5/7. For a board that wants to include what a DCFS report should contain, an optional sentence follows:

The report shall include, if known:

1. The name and address of the child, parent/guardian names, or other persons having custody;
2. The child's age;
3. The child's condition, including any evidence of previous injuries or disabilities; and
4. Any other information that the reporter believes may be helpful to DCFS for its investigation.

<sup>4</sup> The sample policy makes the report to the superintendent or building principal mandatory to keep the administration informed. The administration may not force the staff member to change or modify his or her report.

any necessary notifications to the student's parent(s)/guardian(s) with DCFS, the applicable school resource officer (SRO), and/or local law enforcement. <sup>5</sup>

Any District employee who discovers child pornography on electronic and information technology equipment shall immediately report it to local law enforcement, the National Center for Missing and Exploited Children's CyberTipline ~~1-800-THE-LOST (1-800-/843-5678)~~, or online at [report.cybertip.org/](http://report.cybertip.org/) or [www.cybertipline.com](http://www.cybertipline.com). The Superintendent or Building Principal shall also be promptly notified of the discovery and that a report has been made. <sup>6</sup>

Any District employee who observes any act of hazing that does bodily harm to a student must report that act to the Building Principal, Superintendent, or designee who will investigate and take appropriate action. If the hazing results in death or great bodily harm, the employee must first make the report to law enforcement and then to the Superintendent or Building Principal. Hazing is defined as any intentional, knowing, or reckless act directed to or required of a student for the purpose of being initiated into, affiliating with, holding office in, or maintaining membership in any group, organization, club, or athletic team whose members are or include other students. <sup>7</sup>

---

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

<sup>5</sup> Optional. The sample policy makes coordination with DCFS, the SRO, and local law enforcement a step in the process of reporting, so the local agencies and school district are better able to prevent and manage the risks school officials and parents/guardians face when a DCFS report has been made, e.g., situations where parents/guardians, upon learning a DCFS report has been made involving their child(ren), commit an act of self-harm in response to the information.

For school districts in DuPage County, the DuPage County State's Attorney (SAO), Regional Office of Education (ROE), Police Dept. (PD), and DCFS have created a *Model Policy Reporting Abuse and Neglect for School Officials in DuPage County*, at: [www.dupageroe.org/wp-content/uploads/Mandated\\_Reporting.pdf](http://www.dupageroe.org/wp-content/uploads/Mandated_Reporting.pdf). Consult the board attorney about this reporting policy – its intent is for school officials to immediately inform the SAO that a report to DCFS has been made to allow the SAO to investigate and prevent evidence spoliation. Note: The DuPage SAO, ROE, and PD lack authority under ANCRA over school officials to enforce compliance with this “model reporting policy;” only DCFS has the authority under ANCRA to enforce penalties under ANCRA, not the “model reporting policy.” The DuPage SAO, ROE, and PD did not consult school officials in the creation of its “model reporting policy.”

<sup>6</sup> ~~ANCRA The Reporting Act~~ requires an electronic and information technology equipment worker or the worker's employer to report a discovery of child pornography depicted on an item of electronic and information technology equipment. (325 ILCS 5/4.5). Consult the board attorney to determine whether any district employees fit the definition of an *electronic and information technology worker*, i.e., are “persons who in the scope and course of their employment or business install, repair, or otherwise service electronic and information technology equipment for a fee.”

The paragraph exceeds the ~~State newly added~~ requirements by requiring *all* district employees to report a discovery of child pornography on electronic and information technology equipment. This furthers the National Center for Missing and Exploited Children's public policy goal of “empowering the public to take immediate and direct action to enforce a zero tolerance policy regarding child sexual exploitation.”

Similar to school personnel who are mandated reporters, electronic and information technology equipment workers and their employers have broad immunities from criminal, civil, or administrative liabilities when they report a discovery of child pornography as required under 325 ILCS 5/4.5, except for willful or wanton misconduct (e.g., knowingly filing a false report). Failure to report a discovery of child pornography is a business offense subject to a fine of \$1001.

<sup>7</sup> 720 ILCS 5/12C-50.1(b), ~~added by P.A. 98-393~~, creates a duty for *school officials* to report hazing. The term *school official* includes all school employees and volunteer coaches. ~~(Id.)~~ The duty to report hazing is triggered only when the district employee was fulfilling his or her responsibilities as a school official and observed hazing which results in bodily harm. ~~(Id.)~~ A report must be made to *supervising educational authorities*, which is not defined in the Act. ~~(Id.)~~ Common sense, however, would require the individual witnessing hazing to report it to the building principal or superintendent. Failure to report hazing is a Class B misdemeanor. Failure to report hazing that resulted in death or great bodily harm is a Class A misdemeanor. ~~(Id.)~~ 7:190-AP1, *Student Handbook - Hazing Prohibited*, uses the same definition of *hazing*; this definition is based on 720 ILCS 5/12C-50.

### Abused and Neglected Child Reporting Act (ANCRA), School Code, and Erin's Law Training

The Superintendent or designee shall provide staff development opportunities for District employees in the detection, reporting, and prevention of child abuse and neglect. **8**

All District employees shall:

1. Before beginning employment, sign the *Acknowledgement of Mandated Reporter Status* form provided by DCFS. The Superintendent or designee shall ensure that the signed forms are retained.
2. Complete mandated reporter training as required by law within one year of initial employment and at least every ~~5~~ five years after that date. **9**

The Superintendent will encourage all District educators to complete continuing professional development that addresses the traits and identifiers that may be evident in students who are victims of child sexual abuse, including recognizing and reporting child sexual abuse and providing appropriate follow-up and care for abused students as they return to the classroom setting. **10** 11

### Special Superintendent Responsibilities

The Superintendent shall execute the requirements in Board policy 5:150, *Personnel Records*, whenever another school district requests a reference concerning an applicant who is or was a District employee and was the subject of a report made by a District employee to DCFS. **12**

---

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

**8** While it is unclear whether this is a duty or power, 105 ILCS 5/10-23.12(a), amended by P.A.s 100-413 (eff. 1-1-18) and 100-468 (eff. 6-1-18), authorizes boards "[t]o provide staff development for local school site personnel who work with pupils in grades kindergarten through 8, in the detection, reporting and prevention of child abuse and neglect."

The drill during such training should be: "If in question, report."

**9** ~~The Abused and Neglected Child Reporting Act (ANCRA), 325 ILCS 5/4, amended by P.A. 98-408,~~ also requires staff members, within one year of employment, to complete training from a provider or agency with expertise in recognizing and reporting child abuse. 325 ILCS 5/4. This training must be completed again at least every ~~5~~ five years. This ANCRA training requirement addresses only new employees to a district. It is silent about how to manage individuals who were employed by a district before 7-1-~~20~~14.

To reduce liability and align with best practices, ANCRA training for existing district employees appears prudent; however, consult the board attorney about:

1. Whether mandating existing employees to participate in ANCRA training is 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.
2. How to comply with both the new ANCRA training requirements and whether compliance with them would also satisfy the School Code's more limited district-provided training requirement discussed in f/n ~~87~~ above.

**10** ~~Erin's Law Taskforce Final Report (Report), available at: [www.isbe.net/Documents/erins-law-final0512.pdf](http://www.isbe.net/Documents/erins-law-final0512.pdf).~~ 105 ILCS 5/22-65 was repealed by P.A. 99-30 (eff. 7-10-15) upon submission of the Report.

**11** 105 ILCS 5/10-23.12(b), amended by P.A.s 100-413 (eff. 1-1-18) and 100-468 (eff. 6-1-18), permits DCFS to cooperate with school officials to distribute informational ANCRA materials in school buildings. The following optional sentence provides that information: "The Superintendent or designee will display DCFS-issued materials that list the DCFS toll-free telephone number and methods for making a report under ANCRA in a clearly visible location in each school building."

**12** ~~The Abused and Neglected Child Reporting Act (ANCRA), 325 ILCS 5/4,~~ requires a superintendent, upon being requested for a reference concerning an employee or former employee, to disclose to the requesting school district the fact that a district employee has made a report involving the conduct of the applicant or caused a report to be made to DCFS. 325 ILCS 5/4. When a report involves a disabled adult student, DCFS must instruct mandated reporters making these reports to call the ~~Ill. Dept. of Human Services~~ DHS' Office of the Inspector General's statewide 24 hour toll-free telephone number: 1-800-368-1463 (325 ILCS 5/4.4a) to make a report under the ~~Ill. Dept. of Human Services (DHS) Act (20 ILCS 1305/4).~~

The Superintendent shall notify the State Superintendent and the Regional Superintendent in writing when he or she has reasonable cause to believe that a license holder was dismissed or resigned from the District as a result of an act that made a child an abused or neglected child.<sup>13</sup> The Superintendent must make the report within 30 days of the dismissal or resignation and mail a copy of the notification to the license holder. <sup>14</sup>

#### Special School Board Member Responsibilities

Each individual Board member must, if an allegation is raised to the member during an open or closed Board meeting that a student is an abused child as defined in the Act, direct or cause the Board to direct the Superintendent or other equivalent school administrator to comply with the Act's requirements concerning the reporting of child abuse. <sup>15</sup>

LEGAL REF.: 105 ILCS 5/10-21.9.  
20 ILCS 1305/1-1 et seq., Department of Human Services Act.  
325 ILCS 5/, Abused and Neglected Child Reporting Act.  
720 ILCS 5/12C-50.1, Criminal Code of 2012.

CROSS REF.: 2:20 (Powers and Duties of the School Board; Indemnification), 5:20 (Workplace Harassment Prohibited), 5:100 (Staff Development Program), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:150 (Personnel Records), 6:120 (Education of Children with Disabilities), 6:250 (Community Resource Persons and Volunteers), 7:20 (Harassment of Students Prohibited), 7:150 (Agency and Police Interviews)

---

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

The DHS Act, ~~(20 ILCS 1305/1-17(1))~~, then requires a determination of whether a report involving a disabled adult student should be investigated under it or the Abuse of Adults with Disabilities Intervention Act, ~~(20 ILCS 2435)~~, however that Act was repealed by P.A. 99-049, ~~(eff. 7-1-13)~~. The DHS Act does not outline a duty for the superintendent, upon being requested for a reference concerning an employee or former employee, to disclose to the requesting school district the fact that a district employee has made a report involving the conduct of the applicant or caused a report to be made to DHS involving an adult student with a disability.

Given the public policy behind the recent amendments to 325 ILCS 5/4, a reasonable interpretation of the law is that the superintendent's duty to disclose now involves DHS reports concerning adult students with disabilities. However, with no mechanism requiring DHS to report back to the superintendent a *non-substantiated report* (DHS version of a DCFS *unfounded report*), a superintendent's duty to disclose cannot end. Consult the board attorney about managing the duty to disclose reports that involve disabled adult students when DCFS redirects the reporter to DHS. For more information, see policy 5:150, *Personnel Records*.

<sup>13</sup> Alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Educational Service Center." ~~P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.~~

<sup>14</sup> 105 ILCS 5/10-21.9(e-5) requires these notifications and provides superintendents immunity from any liability, whether civil or criminal or that otherwise might result by complying with the statute.

<sup>15</sup> 325 ILCS 5/4. This statute makes board members mandatory child abuse reporters "to the extent required in accordance with other provisions of this section expressly concerning the duty of school board members to report suspected child abuse." Thus, a board member's duty is "to direct the superintendent or other equivalent school administrator to comply with the Act's requirements concerning the reporting of child abuse" whenever an "allegation is raised to a school board member during the course of an open or closed school board meeting that a child who is enrolled in the school district of which he or she is a board member is an abused child." Of course, any board member with reason to doubt that a report was or will be made should directly contact DCFS.

## General Personnel

### Staff Development Program 1

The Superintendent or designee shall implement a staff development program. The goal of such program shall be to update and improve the skills and knowledge of staff members in order to achieve and maintain a high level of job performance and satisfaction. Additionally, the development program for licensed staff members shall be designed to effectuate the District and School Improvement Plans so that student learning objectives meet or exceed goals established by the District and State.

The staff development program shall provide, at a minimum, at least once every two years, the in-service training of licensed school personnel and administrators on current best practices regarding the identification and treatment of attention deficit disorder and attention deficit hyperactivity disorder, the application of non-aversive behavioral interventions in the school environment, and the use of psychotropic or psychostimulant medication for school-age children. 2

The staff development program shall provide, at a minimum, once every two years, the in-service training of all District staff on educator ethics, teacher-student conduct, and school employee-student conduct. 3 4 5

---

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

1 State law requires the subject matter in paragraph 2 to be covered by policy. State or federal law controls this policy's content. A school board may set and enforce professional growth requirements. ~~(105 ILCS 5/24-5)~~. Failure to meet professional growth requirements is considered remediable. Morris v. Ill. State Bd. of Educ.SBE, 555 N.E.2d 725198 Ill.App.3d 51 (Ill.App.3,3rd Dist. 1990).

105 ILCS 5/2-3.62, amended by P.A. 99-30 (repealing 105 ILCS 5.2-3.60), requires the Ill. State Board of Education (ISBE) to establish a regional network of educational service centers to coordinate and combine existing services in a manner that is practical and efficient for schools. Their purposes are to provide, among other things, continuing education, in-service training, and staff development services to all local school districts in Illinois.

2 This paraphrases 105 ILCS 5/10-20.36(b). The topic covered in this paragraph must be in a board policy. ~~(Id.)~~ A school medical staff, an individualized educational program team, or a professional worker (as defined in Section 14-1.10) may recommend that a student be evaluated by an appropriate medical practitioner. School personnel may consult with the practitioner, with the consent of the student's parent/guardian.

3 105 ILCS 5/10-22.39(f) requires boards to conduct this in-service. While the language of this paragraph is not required to be in board policy, including it provides a way for boards to monitor that it is being done. Including this language provides an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for the in-service that instructs all district staff to maintain boundaries and act appropriately, professionally, and ethically with students. See also 5:120, *Employee Ethics; Conduct; and Conflict of Interest*, and f/n 811 in 4:110, *Transportation*. These expectations will be most effective when they reflect local conditions and circumstances. Employee conduct issues may be subjects of mandatory collective bargaining, therefore consulting the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing new employee conduct rules without first offering to negotiate them with the applicable exclusive bargaining representative.

4 Insert the following option if a board wants to list in-services and/or required trainings that the School Code requires, but are not required to be specified in board policy. ~~(105 ILCS 5/10-22.39 and 110/3-10(b)(2))~~. If the board does not choose this option, delete 325 ILCS 5/4 from the Legal References. The only non-School Code training requirement listed is from the Abused and Neglected Child Reporting Act.

In addition, the staff development program shall include each of the following:

1. At least, once every two years, training of all District staff by a person with expertise on anaphylactic reactions and management.
2. At least every two years, an in-service to train school personnel, at a minimum, to understand, provide information and referrals, and address issues pertaining to youth who are parents, expectant parents, or victims of domestic or sexual violence.

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

3. Training that, at a minimum, provides District staff with a basic knowledge of matters relating to acquired immunodeficiency syndrome (AIDS) and the availability of appropriate sources of counseling and referral.
4. Training for school personnel who work with students in grades 7 through 12 to identify the warning signs of mental illness and suicidal behavior in adolescents and teens along with appropriate intervention and referral techniques.
5. Abused and Neglected Child Reporting Act (ANCRA), School Code, and *Erin's Law* Training as follows:
  - a. Staff development for local school site personnel who work with students in grades kindergarten through 8, in the detection, reporting, and prevention of child abuse and neglect (see policy 5:90, *Abused and Neglected Child Reporting*).
  - b. Within one year of employment, each staff member must complete mandated reporter training from a provider or agency with expertise in recognizing and reporting child abuse. Mandated reporter training must be completed again at least every five years (see policy 5:90, *Abused and Neglected Child Reporting*).
  - c. Informing educators about the recommendation in the *Erin's Law* Taskforce Report requesting them to attend continuing professional development programs that address the prevention and identification of child sexual abuse (see policy 5:90, *Abused and Neglected Child Reporting*).
6. Education for staff instructing students in grades 7 through 12, concerning teen dating violence as recommended by the District's Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students or Complaint Manager.
7. Ongoing professional development for teachers, administrators, school resource officers, and staff regarding the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, and developmentally appropriate disciplinary methods that promote positive and healthy school climates.
8. Annual continuing education and/or training opportunities (*professional standards*) for school nutrition program directors, managers, and staff. Each school food authority's director shall document compliance with this requirement by the end of each school year and maintain documentation for a three year period.
9. All high school coaching personnel, including the head and assistant coaches, and athletic directors must obtain online concussion certification by completing online concussion awareness training in accordance with 105 ILCS 25/1.15. Coaching personnel and athletic directors ~~hired before 8-18-14 must be certified by 8-19-2015; if hired on or after 8-19-14, they~~ must be certified before their position's start date.
10. The following individuals must complete concussion training as specified in the Youth Sports Concussion Safety Act: coaches and assistant coaches (whether volunteer or employee) of an interscholastic athletic activity; nurses, licensed and/or non-licensed healthcare professionals -serving on the Concussion Oversight Team; athletic trainers; game officials of an interscholastic athletic activity; and physicians serving on the Concussion Oversight Team. ~~Individuals covered by this training mandate were to initially complete the training by 9-1-16.~~
11. Every two years, school personnel who work with students must complete an in-person or online training program on the management of asthma, the prevention of asthma symptoms, and emergency response in the school setting.
12. Training for school personnel to develop cultural competency, including understanding and reducing implicit racial bias.
- ~~13.~~ For school personnel who work with hazardous or toxic materials on a regular basis, training on the safe handling and use of such materials.

Alternative to paragraph number 2:

2. At least every two years, an in-service to train school personnel who work with students on how to: (a) communicate with and listen to youth victims of domestic or sexual violence and expectant and parenting youth, (b) connect youth victims of domestic or sexual violence and expectant and parenting youth to appropriate in-school services and other agencies, programs and services as needed, and (c) implement the School District's policies, procedures, and protocols with regard to such youth, including confidentiality. The in-service shall be conducted by persons with expertise in domestic and sexual violence and the needs of expectant and parenting youth.

Citations for this option follow:

1. 105 ILCS 5/10-22.39(e) (refers to anaphylactic reactions/management).
2. 105 ILCS 10-22.39(d).
3. 105 ILCS 5/10-22.39(c).

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

4. 105 ILCS 5/10-22.39(b).
  5. 105 ILCS 5/10-23.12; 325 ILCS 5/4; and *Erin's Law Taskforce Final Report*, authorized by 105 ILCS 5/22-65 and repealed by P.A. 99-30 because of submission of the Report at: [www.isbe.net/Documents/erins-law-final0512.pdf](http://www.isbe.net/Documents/erins-law-final0512.pdf) and see also [www.erinslawillinois.org/](http://www.erinslawillinois.org/) for more resources based upon the report.
  6. 105 ILCS 110/3.10(b)(2).
  7. 105 ILCS 5/10-22.6(c-5), amended by P.A. 99-456. School board members are also included.
  8. 7 C.F.R. Parts 210 ~~and 235~~. Section 210.2 defines school nutrition program directors, managers and staff. 7 C.F.R. §§210.15(b)(8) (recordkeeping requirements) and 210.31(a), (c), (d), and (e) (professional standards requirements); ~~and 210.31(g)~~(requiring school food authority director to keep records), amended by Fed. Reg. Vol. 81, No. 146 at 50169 and finalized 7-29-16. Food service funds may be used for reasonable, allocable, and necessary training costs. ~~7 C.F.R. §210.31(f)~~. The U.S. Dept. of Agriculture (USDA) has established implementation resources that contain training opportunities and resources covering the four core training areas: nutrition, operations, administration, and communications/marketing. ~~They are available at: [professionalstandards.nal.usda.gov](http://professionalstandards.nal.usda.gov).~~
  9. 105 ILCS 25/1.15.
  10. 105 ILCS 5/22-80(h), added by P.A. 99-245, ~~and~~ amended by P.A. 99-486 ~~and P.A. 100-309~~.
  11. 105 ILCS 5/22-30(j-15), amended by P.A. 99-843. Consult the board attorney about whether:
    - a. All asthma action plans should require immediate 911 calls based upon In re: Estate of Jeffrey Stewart, 406 Ill.Dec. 345 (2nd Dist. 2016); In re: Estate of Stewart, 412 Ill.Dec. 914 (Ill. 2017) (school district's appeal denied). The court held that a teacher's failure to dial 911 immediately upon a student's asthma attack was *willful and wanton* conduct, subjecting the school district to liability under the Local Governmental and Governmental Employees Tort Immunity Act.
    - b. The duties and responsibilities of the district when it asks for, but does not receive an asthma action plan from a parent/guardian and the logistics of distributing any received plans to those employees who need to know based upon Stewart, above.
12. 105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-14, 42-13. 105 ILCS 5/10-20.17a; 23 Ill.Admin.Code §1.330.

Putting this optional list into the policy will help the board monitor that the required in-service and training topics are being covered. While it is possible to *pick and choose*, this practice is likely to add more confusion to an already confusing responsibility. Unless noted, the School Code does not mandate the frequency with which the training must occur. Several other trainings that are mentioned in laws other than the School Code are addressed in other policies. Many of those policies are listed in the cross-references to this policy, e.g., training requirements under the Care of Students with Diabetes Act. ~~(105 ILCS 145/7)~~.

<sup>5</sup> Different from the in-service training that school districts must provide to their staff, 105 ILCS 5/3-11, amended by P.A. 99-616, contains requirements that the regional superintendents must include during teachers institutes. Instruction on prevalent student chronic health conditions, ~~should have begun during school year 2009-2010. Eas well as~~ educator ethics and teacher-student conduct training is also required. ~~(See also f/n 3 above discussing the board's requirement in Section 10-22.39)~~. Beginning with the 2016-17 school year, teachers' institutes must also include instruction on the Americans with Disabilities Act of 1990 (ADA) as it pertains to the school environment at least every two years. Contact the Regional Superintendent or the appropriate Intermediate Service Center with questions about online training for this component of a teachers' institute. Discuss with the board attorney the best practices of documenting trainings and evaluations of trainings; many attorneys in the field prefer documentation of ADA trainings to assist in their defense of any potential ADA claims against the district.

For districts that have a practice of providing instruction in life-saving techniques and first-aid in their staff development programs, insert the following optional paragraph that restates 105 ILCS 5/3-11, 105 ILCS 110/3, and 77 Ill.Admin.Code §527.800:

An opportunity shall be provided for all staff members to acquire, develop, and maintain the knowledge and skills necessary to properly administer life-saving techniques and first aid, including the Heimlich maneuver, cardiopulmonary resuscitation, and the use of an automated external defibrillator, in accordance with a nationally recognized certifying organization. Physical fitness facilities' staff must be trained in cardiopulmonary resuscitation and use of an automated external defibrillator.

Persons performing CPR are generally exempt from civil liability if they are trained in CPR (745 ILCS 49/10); persons performing automated external defibrillation are generally exempt from civil liability if they were trained and acted according to the standards of the American Heart Association (745 ILCS 49/12).

The Superintendent shall develop protocols for administering youth suicide awareness and prevention education to staff consistent with Board policy 7:290, *Suicide and Depression Awareness and Prevention*. 6

LEGAL REF.: [Healthy, Hunger-Free Kids Act of 2010, 42 U.S.C. §1758b, Pub. L. 111-296, 7 C.F.R. Parts 210 and 235.](#)  
105 ILCS 5/2-3.62, [5/10-20.17a, 5/10-20.60 \(P.A. 100-14, final citation pending\), 5/10-22.6\(c-5\), 5/10-22.39, 5/10-23.12, 5/22-80\(h\), 5/10-23.12, 5/24-5, 105 ILCS 25/1.15, Interscholastic Athletic Organization Act, and 105 ILCS 110/3, Critical Health Problems and Comprehensive Health Education Act.](#)  
325 ILCS 5/4, Abused and Neglected Child Reporting Act.  
745 ILCS 49/, Good Samaritan Act.  
~~7 C.F.R. Part 210.~~  
23 Ill.Admin.Code §§ [22.20, 226.800, and](#) Part 525.  
[77 Ill.Admin.Code §27.800.](#)

CROSS REF.: 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 4:160 (Environmental Quality of Buildings and Grounds), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:250 (Leaves of Absence), 6:15 (School Accountability), 6:20 (School Year Calendar and Day), [6:50 \(School Wellness\)](#), 6:160 (English Learners), [7:10 \(Equal Educational Opportunities\)](#), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:270 (Administering Medicines to Students), 7:285 (Food Allergy Management Program), 7:290 (Suicide and Depression Awareness and Prevention), 7:305 (Student Athlete Concussions and Head Injuries)

ADMIN PROC.: 4:160-AP (Environmental Quality of Buildings and Grounds), 4:170-AP6 (Plan for Responding to a Medical Emergency at an Indoor Physical Fitness Facility), 5:100-AP (Staff Development Program), 5:150-AP (Personnel Records), 6:120-AP4 (Care of Students with Diabetes), 7:250-AP1 (Measures to Control the Spread of Head Lice at School)

---

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

The board may also want to address other staff development opportunities. While not required to be policy, 105 ILCS 5/27-23.10 requires a school board to collaborate with State and local law enforcement agencies on gang resistance education and training. It also states that ISBE may assist in the development of instructional materials and teacher training for gang resistance education and training, which may be helpful to include in the staff development program. Other mandated and recommended staff development opportunities that are not located in the School Code or ISBE rules are found in the Ill. Administrative Code or federal regulations. Many of them are cross referenced in this policy.

6 Required by 105 ILCS 5/2-3.163, amended by P.A. 99-443.



## Professional Personnel

### Terms and Conditions of Employment and Dismissal <sup>1</sup>

The School Board delegates authority and responsibility to the Superintendent to manage the terms and conditions for the employment of professional personnel. The Superintendent shall act reasonably and comply with State and federal law as well as any applicable collective bargaining agreement in effect. The Superintendent is responsible for making dismissal recommendations to the Board consistent with the Board's goal of having a highly qualified, high performing staff. <sup>2</sup>

### School Year and Day

Teachers shall work according to the school calendar adopted by the Board, which shall have a minimum of 176 student attendance days and a minimum of 180 teacher work days, including teacher institute days.<sup>3</sup> Teachers are not required to work on legal school holidays unless the District has followed applicable State law that allows it to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on the third Monday in January (the Birthday of Dr. Martin Luther King, Jr.); February 12 (the Birthday of President Abraham Lincoln); the first Monday in March (known as Casimir Pulaski's birthday); the second Monday in October (Columbus Day); and November 11 (Veterans' Day). <sup>4</sup>

### School Day

Teachers are required to work the school day adopted by the Board.<sup>5</sup> Teachers employed for at least four hours per day shall receive a duty-free lunch equivalent to the student lunch period, or 30 minutes, whichever is longer. <sup>6</sup>

The District accommodates employees who are nursing mothers according to provisions in State and federal law. <sup>7</sup>

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

<sup>1</sup> State or federal law controls this policy's content. This policy contains items 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. The local collective bargaining agreement may contain provisions that exceed these requirements. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement." ~~When a policy's subject matter is superseded by a bargaining agreement, the board policy can state, "Please refer to the current [insert name of CBA or use a generic reference, e.g., "agreement between the bargaining representative and the School Board"]".~~

Evaluation, tenure, and dismissals ~~will be changed~~ significantly from ~~2013~~now until to 2016 as P.A.s 96-861, 97-8, and 98-513 ~~(eff. 1-1-14)~~ are implemented. These public acts are ~~frequently~~ referred to as *Education Reform* or *Education Reform Acts*.

<sup>2</sup> This paragraph is consistent with the *IASB's Foundational Principles of Effective Governance*. Boards have ~~three~~ options for using this paragraph: (1) use it as an introduction to the policy; (2) use it alone leaving the specific other topics for administrative implementation; or (3) do not use it.

<sup>3</sup> 105 ILCS 5/10-19. See ~~policy~~ 6:20, *School Year Calendar and Day*.

<sup>4</sup> 105 ILCS 5/24-2(b). See ~~policy~~ 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing as well as a discussion of the case finding the State-mandated school holiday on "Good Friday" unconstitutional. 105 ILCS 5/24-2 prohibits districts from making a deduction "from the time or compensation of a school employee on account of any legal or special holiday."

<sup>5</sup> The length of the school day is left to the board's discretion absent an individual or collective bargaining contract. With several exceptions, the student attendance day must include at least ~~five~~ five class hours of direct teacher supervision. (105 ILCS 5/18-8.05).

<sup>6</sup> 105 ILCS 5/24-9.

Salary

Teachers shall be paid according to the salary ~~iesy fixed schedule adopted~~ by the Board, but in no case less than the minimum salary provided by the School Code.<sup>8</sup> Teachers shall be paid at least monthly on a 10- or 12-month basis. <sup>9</sup>

Assignments and Transfers

The Superintendent is authorized to make teaching, study hall, extra class duty, and extracurricular assignments.<sup>10</sup> In order of priority, assignments shall be made based on the District’s needs and best interests, employee qualifications, and employee desires.

School Social Worker Services Outside of District Employment

School social workers may not provide services outside of their District employment to any student(s) attending school in the District. School social worker has the meaning stated in 105 ILCS 5/14-1.09a. <sup>11</sup>

Dismissal

The District will follow State law when dismissing a teacher. <sup>12</sup>

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

~~<sup>7</sup> 740 ILCS 137/; 820 ILCS 260/1. Ill. law requires more of employers than federal law. Consult the board attorney to ensure the district is properly accommodating nursing mothers. See 5:10-AP, *Workplace Accommodations for Nursing Mothers*.~~

~~<sup>8</sup> 105 ILCS 5/10-20.7, 5/10-21.1, 5/24-1, and 5/24-8 (minimum salary). Salaries are a mandatory subject of collective bargaining. ~~(115 ILCS 5/10)~~. Annually, by Oct. 1, each district must: (1) during an open school board meeting, report salary and benefits information for the superintendent, administrators, and teachers; (2) publish that information on the district’s website, if any; and (3) provide this information to ISBE. ~~(105 ILCS 5/10-20.47)~~. According to a Public Access Counselor’s *Informal Mediation* letter interpreting Sec. 7.3 of the Open Meetings Act, an IMRF employer must post on its website the names of employees having a total compensation package that exceeds \$75,000 per year. ~~(2012 PAC 19808)~~.~~

~~<sup>9</sup> 105 ILCS 5/24-21.  
<sup>10</sup> Districts are required to have a policy on the distribution of the listed assignments ~~(23 Ill.Admin.Code §1.420(d)~~. Absent an individual or collective bargaining agreement, the board has unilateral discretion to assign or retain a teacher to or in an extracurricular duty. *Betebenner v. Bd. of Educ.*, ~~336 Ill.App. 448 (4th Dist. 1949)~~~~84 N.E.2d 569 (Ill.App.4, 1949)~~; *Dist. 300 Educ. Assoc. v. Bd. of Educ.*, ~~31 Ill.App.3d 550 (2nd Dist. 1975)~~~~334 N.E.2d 165 (Ill.App.2, 1975)~~; *Lewis v. Bd. of Educ.*, ~~181 Ill.App. 3d 689 (5th Dist. 1989)~~~~537 N.E.2d 435 (Ill.App.5, 1989)~~.~~

~~<sup>11</sup> Optional. This subhead provides information to district employees and the community that 105 ILCS 5/14-1.09a, amended by P.A. 100-356, prohibits school social workers from moonlighting by providing services to students attending the districts in which they are employed. Delete “5/10-20.60, 5/14-1.09a.” from the Legal References if the board deletes this subhead.~~

<sup>12</sup> All dismissal laws in the chart below were amended by P.A.s 96-861, 96-1423, 97-8 and/or 98-513 (eff. 1-1-2014).

<b>Non-tenure Teacher Discharge</b>	105 ILCS 5/24-11
<b>Tenured and Non-tenure Teachers</b> Reduction in Force	105 ILCS 5/24-12(b) and (c)
<b>Tenured Teacher Discharge</b> Where Cause Remediable	105 ILCS 5/24-12(d) (prior reasonable warning required) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
<b>Tenured Teacher Discharge</b> Where Cause Irremediable	105 ILCS 5/24-12(d) (no prior warning required) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)

Evaluation

The District’s teacher evaluation system will be conducted under the plan developed pursuant to State law. 13

On an annual basis, the Superintendent will provide the Board with a written report which outlines the results of the District’s teacher evaluation system.

LEGAL REF.: 105 ILCS 5/10-19, 5/10-20.60 (P.A. 100-356, final citation pending), 5/14-1.09a, 5/18-8, 5/22.4, 5/24-16.5, 5/24-2, 5/24-8, 5/24-9, 5/24-11, 5/24-12, 5/24-21, 5/24A-1 through 24A-20.  
 820 ILCS 260/1 et seq.  
 23 Ill.Admin.Code Parts 50 (Evaluation of Certified Employees) and 51 (Dismissal of Tenured Teachers).  
Cleveland Board of Education v. Loudermill, 470 U.S. 532, 105 S.Ct. 1487(1985).

CROSS REF.: 5:290 (Employment Termination and Suspensions), 6:20 (School Year Calendar and Day)

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

<p><b>Tenured Teacher Discharge</b>                  Failure to complete remediation plan with a rating of <del>Satisfactory (until Sept. 1, 2012) or Proficient (on or before Sept. 1, 2012)</del></p>	<p>105 ILCS 5/24A-5(m) (participation in remediation plan after unsatisfactory evaluation)                  105 ILCS 5/24-12(d)(1) (no prior warning required if cause(s) were subject of remediation plan)                  105 ILCS 5/24-12(d) (procedural mandates)                  105 ILCS 5/10-22.4 (general authority)</p>
<p><b>Tenured Teacher Discharge - Optional Alternative Evaluative Dismissal Process for PERA Evaluation</b>                  Failure to complete remediation plan with a <i>Proficient</i> or better rating <del>after a district has reached its “PERA implementation date” (105 ILCS 5/24A-2.5.)</del></p>	<p>105 ILCS 5/24-16.5(d) (provide written notice)                  105 ILCS 5/24-16.5 (pre-remediation and remediation procedural mandates)                  105 ILCS 5/24-16.5(e) and (f) (school board makes final decision with only PERA-trained board members participating in vote)</p>
<p><b>Tenured Teacher Discharge</b>                  Unsatisfactory PERA evaluation within 36 months of completing a remediation plan <del>after a district has reached its “PERA implementation date” (105 ILCS 5/24A-2.5)</del></p>	<p>105 ILCS 5/24A-5(n) (forego remediation and proceed to dismissal)                  105 ILCS 5/24-12(d) (procedural mandates)                  105 ILCS 5/10-22.4 (general authority)</p>
<p><b>Educational Support Personnel Employees</b> (non-certificated)</p>	<p>105 ILCS 5/10-23.5 (not affected by P.A.s 96-861 and 97-8)</p>
<p><b>Probationary Teacher</b> (non-tenure teacher)</p>	<p>105 ILCS 5/24-11</p>

Various components of a RIF (e.g., impact and decision to RIF) and an evaluation plan (e.g., development, implementation, and impact) may be subject to mandatory collective bargaining. Central City Educ. Assoc. v. IELRB, 149 Ill.2d 496, 599 N.E.2d 892 (Ill. 1992).

Teacher RIF procedures were changed in 2011 and 2013, ~~(105 ILCS 5/24-12, amended by P.A.s 97-8 and 98-513)~~. See *PERA Overview for School Board Members*, question 14, “How has the process for selecting teachers for a reduction in force/layoff (RIF) changed?,” at: [iasb.com/law/pera.cfm](http://iasb.com/law/pera.cfm).

According to a binding opinion from the Ill. Public Access Counselor, a board must identify an employee by name in a motion to dismiss him or her, ~~(2013-PAO 13-16)~~. As this may be a significant change in practice with possible other legal consequences, a board should consult with the board attorney on this issue before dismissing employee.

13 Teacher evaluation plans are covered in *PERA Overview for School Board Members*, at: [iasb.com/law/pera.cfm](http://iasb.com/law/pera.cfm).

## Professional Personnel

### Substitute Teachers 1

The Superintendent may employ substitute teachers as necessary to replace teachers who are temporarily absent.

A substitute teacher must hold either a valid teaching or substitute license and may teach in the place of a licensed teacher who is under contract with the Board.<sup>2</sup> There is no limit on the number of days that a substitute teacher may teach in the District during the school year, except as follows: <sup>3</sup>

1. A substitute teacher holding a substitute license may teach for any one licensed teacher under contract with the District only for a period not to exceed 90 paid school days in any one school term.
2. A teacher holding a Professional Educator License<sup>4</sup> or Educator License with Stipulations<sup>5</sup> may teach for any one licensed teacher under contract with the District only for a period not to exceed 120 paid school days.

The Illinois Teachers' Retirement System (TRS) limits a substitute teacher who is a TRS annuitant to substitute teaching for a period not to exceed 100 paid days or 500 paid hours in any school year, unless the subject area is one where the Regional Superintendent has certified that a personnel shortage exists. <sup>6</sup>

The School Board establishes a daily rate of pay for substitute teachers. Substitute teachers receive only monetary compensation for time worked and no other benefits. <sup>7</sup>

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

<sup>1</sup> State law controls this policy's content. Policy 5:30, *Hiring Process and Criteria*, contains the requirements for pre-employment investigations, e.g., a finger-print based criminal history records check. See also 5:30-AP2, *Administrative Procedure - Investigations*. Each board must require new employees to furnish evidence of a physical examination and freedom from communicable disease. (~~105 ILCS 5/24-5, amended by P.A. 98-716~~). The physical examination must be performed within 90 days before the time it is presented to the board, and the employee bears the cost of the physical examination.

<sup>2</sup> ~~23 Ill.Admin.Code §1.790(a)(2), added by 41 Ill.Reg. 6924, requires that any individual who serves as a substitute teacher for driver's education be endorsed for driver's education pursuant to 23 Ill.Admin.Code §25.100(k).~~

<sup>3</sup> Substitute teaching licenses are governed by 105 ILCS 5/21B-20(3) and 23 Ill.Admin.Code §§ 1.790, 25.520.

<sup>4</sup> Professional educator licenses are governed by 105 ILCS 5/21B-20(1) and 23 Ill.Admin.Code Part 25.

<sup>5</sup> Educator licenses with stipulations are governed by 105 ILCS 5/21B-20(2) and 23 Ill.Admin.Code Part 25. 105 ILCS 5/21B-20(2)(E), amended by P.A. 100-13, permits an individual who holds a valid career and technical educator endorsement on an Educator License with Stipulations but who does not hold a bachelor's degree to substitute teach in career and technical education classrooms. Similarly, 105 ILCS 5/21B-20(2)(F), amended by P.A. 100-13, permits an individual who holds a provisional or part-time provisional career and technical educator endorsement on an Educator License with Stipulations but who does not hold a bachelor's degree to substitute teach in career and technical education classrooms.

<sup>6</sup> 40 ILCS 5/16-118 and ~~40 ILCS 5/16-150.1~~. Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." ~~P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.~~

<sup>7</sup> If a board provides substitute teachers other benefits, it may consider listing them here.

## Emergency Situations 8

A substitute teacher may teach when no licensed teacher is under contract with the Board if the District has an emergency situation as defined in State law. During an emergency situation, a substitute teacher is limited to 30 calendar days of employment per each vacant position. The Superintendent shall notify the appropriate Regional Office of Education within ~~5~~five business days after the employment of a substitute teacher in an emergency situation.

LEGAL REF.: 105 ILCS 5/21B-20~~(2) and 5/21B-20(3) and 24-5.~~  
23 Ill.Admin.Code §1.790 (Substitute Teacher) and §25.520 (Substitute Teaching License).

CROSS REF.: 5:30 (Hiring Process and Criteria)

---

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

~~8~~ 105 ILCS 5/21-~~9B-20(3)~~. An *emergency situation* is defined as one where an unforeseen vacancy has occurred and (i) a teacher is unable to fulfill his or her contractual duties, or (ii) the district's teacher capacity needs exceed previous indications and the district is actively engaged in advertising to hire a fully licensed teacher for the vacant position.

Use this alternative for districts in suburban Cook County: replace "Regional Office of Education" with "appropriate Intermediate Service Center." ~~P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.~~

## 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 5-five calendar days of receipt of a pre-suspension notification, the Board or Board-appointed

---

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. 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. ~~A board policy will be superseded by a collective bargaining agreement that contains provisions exceeding the requirements of the policy; in that case, the policy should state, "Please refer to the current [insert name of CBA or use a generic reference, e.g., "agreement between the bargaining representative and the School Board"]."~~ 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. 452 447 S.Ct. 905 (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.<sup>4</sup> 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.<sup>5</sup>

### Employees Under Investigation by Illinois Dept. of Children and Family Services (DCFS) <sup>6</sup>

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,<sup>7</sup> 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.

---

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

<sup>4</sup> Some case law suggests a separate hearing must be held before any suspension without pay is invoked: Cleveland Board of Education v. Loudermill, 470 U.S. 532+05 S.Ct. 1487 (1985); Barszcz v. Community College District 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. 561 N.E.2d 246 (Ill.App.5, 1990); Spinelli v. Immanuel Lutheran Evangelical Congregation, Inc., 118 Ill.2d 389515 N.E.2d 4222 (1987).

<sup>5</sup> 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.

<sup>6</sup> Optional. 325 ILCS 5/7.4(c-5), amended by P.A. 100-176, eff. 1-1-18. 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 Comm. 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).

<sup>7</sup> 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.<sup>8</sup> The Superintendent will notify the employee of this requirement when the employee is suspended.

LEGAL REF.: 5 ILCS 430/5-60(b).  
105 ILCS 5/24-12.  
325 ILCS 5/7.4(c-10).  
Cleveland Board of Education v. Loudermill, 470 U.S. 532, 105 S.Ct. 1487 (1985).  
Barszcz v. Community College District No. 504, 400 F.Supp. 675 (N.D. Ill., 1975).  
Massie v. East St. Louis School District No. 189, 203 Ill.App.3d 965 (5th Dist., 561 N.E.2d 246 (Ill.App.5, 1990).

CROSS REF.: 5:290 (Educational Support Personnel - Employment Termination and Suspensions)

---

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

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



## Professional Personnel

### Leaves of Absence 1

Each of the provisions in this policy applies to all professional personnel to the extent that it does not conflict with an applicable collective bargaining agreement or individual employment contract or benefit plan; in the event of a conflict, such provision is severable and the applicable bargaining agreement or individual agreement will control.

### Sick and Bereavement Leave 2

Each full-time professional staff member is granted 10 days sick leave each school year at full pay. Unused days are allowed to accumulate to 180 days. Sick leave is defined in State law as personal illness, quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, or placement for adoption.

As a condition for paying sick leave after ~~3~~-three days absence for personal illness or 30 days for birth or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may require that the staff member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, (2) a chiropractic physician licensed under the Medical

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

<sup>1</sup> 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. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. It also provides policy coverage for those professional personnel who are not included in a bargaining unit or have employment contracts with conflicting provisions. Alternatively, if the policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the applicable collective bargaining agreement~~current [insert name of professional CBA].~~"

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA), 29 U.S.C. §2612), amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (Pub.L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (1) the birth and first-year care of a child; (2) the adoption or foster placement of a child; (3) the serious health condition of an employee's spouse, parent, or child; (4) the employee's own serious health condition; (5) the existence of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on *covered active duty*; and (6) to care for the employee's spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness. Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee's FMLA entitlement. ~~(29 C.F.R. §825.207)~~. See policy 5:185, *Family and Medical Leave*.

A plethora of State laws grant leaves to employees of the State and municipalities but are not applicable to school districts, including the Employee Blood Donation Leave Act (820 ILCS 149/), Local Government Disaster Service Volunteer Act (50 ILCS 122/), Organ Donor Leave Act (5 ILCS 327/), and Civil Air Patrol Leave Act (820 ILCS 148/).

<sup>2</sup> The provisions in this section are required by 105 ILCS 5/24-6. Each specified number of days in this section is the statutory minimum. Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements.

Consult the board attorney about the Employee Sick Leave Act 820 ILCS 191/, added by P.A. 99-841, eff. 1-1-17. It prohibits employers from limiting the use of sick time to an employee's own illnesses and allows employees to use employer-provided sick leave to care for an ill or injured *family member* or to attend a medical appointment with a family member. The law defines family members as a child ~~(biological, adopted, stepchild, or legal ward)~~, stepchild, spouse, domestic partner, sibling, parent, mother- or father-in-law, grandchild, grandparent, or stepparent. ~~(Id. at 191/10(b))~~. Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury.

Practice Act, (3) an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, (4) a physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (5) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than ~~three~~ 3 days for personal illness, the District shall pay the expenses incurred by the employee.

The use of paid sick leave for adoption or placement for adoption is limited to 30 days unless a longer leave is provided in an applicable collective bargaining agreement. The Superintendent may require that the employee provide evidence that the formal adoption process is underway. 3

#### Child Bereavement Leave 4

State law allows a maximum of 10 unpaid work days for eligible employees (Family and Medical Leave Act of 1993, 20 U.S.C. §2601 et seq.) to take child bereavement leave. The purpose, requirements, scheduling, and all other terms of the leave are governed by the Child Bereavement Leave Act. Child bereavement leave allows for: (1) attendance by the bereaved staff member at the funeral or alternative to a funeral of his or her child, (2) making arrangements necessitated by the death of the staff member's child, or (3) grieving the death of the staff member's child, without any adverse employment action.

The leave must be completed within 60 days after the date on which the employee received notice of the death of his or her child. However, in the event of the death of more than one child in a 12-month period, an employee is entitled to up to a total of six weeks of bereavement leave during the 12-month period, subject to certain restrictions under State and federal law. Other existing forms of leave may be substituted for the leave provided in the Child Bereavement Leave Act. This policy does not create any right for an employee to take child bereavement leave that is inconsistent with the Child Bereavement Leave Act.

#### Sabbatical Leave 5

Sabbatical leave may be granted in accordance with the School Code.

#### Personal Leave 6

Professional staff members are granted one personal leave day per year. A personal leave day is defined as a day to allow professional personnel time to conduct personal business (but not vacation, travel, or work stoppage), which is impossible to schedule at a time other than during a school day. Any unused personal leave day in a school year will be credited to the cumulative sick leave.

---

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

3 105 ILCS 5/24-6.

4 Child Bereavement Leave Act ~~(Act)~~, 820 ILCS 154/, added by P.A. 99-703. These paragraphs discuss child bereavement leave. 820 ILCS 154/5, added by P.A. 99-703, defines an *eligible employee* under the same terms as an employee under FMLA (29 U.S.C. 2601 et seq.). See f/n 1 above.

The Act also provides that the leave must be completed within 60 days of the employee learning of the death of his or her *child*, as defined by 820 ILCS 154/, added by P.A. 99-703. However, that 60 day limitation does not apply where more than one child dies in a 12-month period. There may be times where an employer may want to grant more than 10 unpaid work days, e.g., when a deceased child lived in a foreign country, etc. Consult the board attorney to resolve the complexities of determining whether an employee is an eligible employee under the FMLA that would trigger this Act.

5 State law provides guidelines for sabbatical leaves but does not require boards to offer them. ~~(105 ILCS 5/24-6.1).~~

6 State law does not address personal leave. It is not uncommon for professional staff to be granted more than one day of personal leave a year.

The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, personal leave requests should be submitted to the Building Principal ~~three~~3 days in advance of the requested date,
2. No personal leave days may be used immediately before or immediately after a holiday unless the Superintendent grants prior approval,
3. Personal leave may not be used in increments of less than one-half day,
4. Personal leave days are subject to a substitute's availability,
5. Personal leave days may not be used during the first and/or last ~~five~~5 days of the school year,
6. Personal leave days may not be used on in-service and/or institute training days, and
7. Personal leave may not be used by more than 10% of the teaching staff in each building at the same time.

#### Leave of Absence Without Pay 7

The Board may grant a leave of absence without pay to tenured professional staff members who have rendered satisfactory service and desire to return to employment in a similar capacity at a time determined by the Board.

Each leave of absence shall be of the shortest possible duration required to meet the leave's purpose consistent with a reasonable continuity of instruction for students.

#### Leave to Serve as an Election Judge 8

Any staff member who was appointed to serve as an election judge under State law may, after giving at least 20-days' written notice to the District, be absent without pay for the purpose of serving as an election judge. The staff member is not required to use any form of paid leave to serve as an election judge. No more than 10% of the District's employees may be absent to serve as election judges on the same ~~election~~ Election day Day.

#### Child-Rearing Leave 9

The Board shall grant a professional staff member's request for a non-paid, child-rearing leave, not to exceed the balance of the school year plus one additional school year (but in no event shall such leave

---

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

<sup>7</sup> State law does not address leaves of absence without pay other than stating that a mutually agreed leave will not affect a teacher's contractual continued service. ~~(105 ILCS 5/24-13).~~

<sup>8</sup> This paragraph restates 10 ILCS 5/13-2.5, ~~amended by P.A. 98-691~~. The statute does not state whether the notice requirement is *calendar* days or *business* days. Support for it being *calendar* days is found in 10 ILCS 5/1-6; support for it being *business* days is found in 10 ILCS 5/1-3.

Rather than duplicate the statute's requirements in separate policies, board policy 5:330, *Educational Support Personnel - Sick Days, Vacation, Holidays, and Leaves*, grants the leave to support personnel on the terms applicable to professional staff.

<sup>9</sup> The School Code does not address child-rearing. ~~The Family and Medical Leave Act (FMLA), 29 U.S.C. §2612, 29 C.F.R. §825.200~~, grants eligible employees a combined total of 12 weeks each year, with exceptions for teachers at the end of the school year, for, among other things, a child's: (1) birth and first-year care, and (2) adoption or foster placement (see policy 5:185, *Family and Medical Leave*). Districts not covered by the FMLA must treat a request for child-care leave to care for an adopted infant on terms comparable to those given biological mothers. *McWright v. Alexander*, 982 F.2d 222 (7th Cir. 1993).

exceed ~~three~~ semesters), provided the request complies with this policy. Nothing in this section shall prohibit a professional staff member from using paid sick days as provided in this policy. **10**

A teacher must request, if possible, a child-rearing leave by notifying the Superintendent in writing no later than 90 days before the requested leave's beginning date.<sup>11</sup> The request should include the proposed leave dates. The leave shall end before a new school year begins or before the first day of school after winter recess. **12**

Subject to the insurance carrier's approval, the teacher may maintain insurance benefits at his or her own expense during a child-rearing leave.

A professional staff member desiring to return before the leave's expiration will be assigned to an available vacancy for which the teacher is qualified, subject to scheduling efficiency and instruction continuity.

### Leaves for Service in the Military **13**

Leaves for service in the U.S. Armed Services or any of its reserve components and the National Guard, as well as re-employment rights, will be granted in accordance with State and federal law. A professional staff member hired to replace one in military service does not acquire tenure.

### General Assembly Leave **14**

Leaves for service in the General Assembly, as well as re-employment rights, will be granted in accordance with State and federal law. A professional staff member hired to replace one in the General Assembly does not acquire tenure.

### Leave for Employment in Department of Defense **15**

The Board may grant teachers a leave of absence to accept employment in a Department of Defense overseas school.

---

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

**10** Districts offering a child-rearing or maternity leave must be very careful not to violate anti-discrimination laws. Districts can prohibit pregnant teachers from combining paid disability leave with an unpaid maternity leave, provided that non-pregnant teachers are likewise prohibited from combining a paid disability leave with an unpaid general leave of absence. Maganuco v. Leyden Comm. High Sch., ~~Dist. 212~~, 939 F.2d 440 (7th Cir., 1991); U.S. v. Consol. High Sch., ~~Dist. 230~~, 983 F.2d 790 (7th Cir., 1993); E.E.O.C. v. Elgin Teachers' Ass'n., 780 F.Supp. 1195 (N.D.Ill., 1991). A sick leave bank exclusion of maternity benefits violates Title VII. U.S. v. Consol. High Sch., ~~Dist. 230~~, Supra.

**11** The length of the notice - here 90 days - is *not* covered by State or federal law. If an employee fails to provide this notice, the employee still has the right to request a family and medical leave which has a much shorter notice requirement (see policy 5:185, *Family and Medical Leave*), and could be followed by a child-rearing leave.

**12** For a high school, omit "the first day of school after winter recess" and insert "at the semester break." Alternatively, the board may want to be more flexible by stating:

Every effort shall be made to have the leave minimally interrupt instructional continuity by ending . . .

**13** Required by: the School Code (105 ILCS 5/10-20.7b, 5/24-13, and 5/24-13.1); the Military Leave of Absence Act (5 ILCS 325/, added mandatory leave for "other training or duty required by the United States Armed Forces" and requires the public employer to make up the difference between military pay and regular compensation); Service Member's Employment Tenure Act (330 ILCS 60/4); Public Employee Armed Services Rights Act (5 ILCS 330/4); National Guard Employment Rights (20 ILCS 1805/30.20); and Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301).

**14** Required by 105 ILCS 5/24-13.

**15** State law provides guidelines for Dept. of Defense leaves but does not require boards to offer them. ~~(105 ILCS 5/24-13.1).~~

### School Visitation Leave

An eligible professional staff member is entitled to ~~8-eight~~ hours during any school year, no more than ~~4-four~~ hours of which may be taken on any given day, to attend school conferences or classroom activities related to the teacher's child, if the conference or activity cannot be scheduled during non-work hours.<sup>16</sup> Professional staff members must first use all accrued vacation leave, personal leave, compensatory leave, and any other leave that may be granted to the professional staff member, except sick, and disability leave. <sup>17</sup>

The Superintendent shall develop administrative procedures implementing this policy consistent with the School Visitation Rights Act. <sup>18</sup>

### Leaves for Victims of Domestic or Sexual Violence <sup>19</sup>

An unpaid leave from work is available to any staff member who: (1) is a victim of domestic or sexual violence, or (2) has a family or household member who is a victim of domestic or sexual violence whose interests are not adverse to the employee as it relates to the domestic or sexual violence. The unpaid leave allows the employee to seek medical help, legal assistance, counseling, safety planning, and other assistance without suffering adverse employment action.

The Victims' Economic Security and Safety Act governs the purpose, requirements, scheduling, and continuity of benefits, and all other terms of the leave. Accordingly, if the District employs at least 50 employees, an employee is entitled to a total of 12 work weeks of unpaid leave during any 12-month period.<sup>20</sup> Neither the law nor this policy creates a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. §2601 et seq.). <sup>21</sup>

---

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

<sup>16</sup> 820 ILCS 147/15.

<sup>17</sup> *Id.* The school visitation leave entitlement applies to both professional and educational support personnel. Rather than duplicate its requirements in separate policies, board policy 5:330, Educational Support Personnel - *Sick Days, Vacation, Holidays, and Leaves*, grants the leave on the same terms applicable to professional staff.

<sup>18</sup> 820 ILCS 147/.

<sup>19</sup> Required by the Victims' Economic Security and Safety Act, (VESSA, 820 ILCS 180/ and 56 Ill.Admin.Code §280). While the law applies to all school districts (820 ILCS 180/10(10), amended by P.A. 99-765), ~~eff. 1-1-17~~, the number of employees determines the number of total workweeks of leave available during any 12-month period (820 ILCS 180/20(a)(2)), amended by P.A. 99-765, eff. 1-1-17. The term *employee* includes part-time workers. The Ill. Dept. of Labor must furnish to all employers a notice summarizing the law's requirements (*Your Rights Under Illinois Employment Laws*; at: [www.illinois.gov/idol/Employers/Documents/flsposter.pdf](http://www.illinois.gov/idol/Employers/Documents/flsposter.pdf) ). All districts must post this notice in a conspicuous place where notices to employees are customarily posted.

<sup>20</sup> If the district employs fewer than 50 employees, it may substitute the following sentence: "Accordingly, if the District employs at least 15 but not more than 49 employees, an employee is entitled to a total of eight work weeks of unpaid leave during any 12-month period." 820 ILCS 180/20(a)(2).

If the district employs at least one but not more than 14 employees, it may substitute the following sentence: "Accordingly, if the District employs at least one but not more than 14 employees, an employee is entitled to a total four (4) work weeks of leave during any 12-month period." 820 ILCS 180/20(a)(2), amended by P.A. 99-765, eff. 1-1-17.

<sup>21</sup> ~~The Victims' Economic Security and Safety Act~~ VESSA states that an employee does not have a right to take unpaid leave that exceeds the unpaid leave time allowed under the ~~Family and Medical Leave Act~~ FMLA. (820 ILCS 180/20(a)(2)). Section 25 creates an ambiguity by stating, "[t]he employer may not require the employee to substitute available paid or unpaid leave for [leave available to victims of domestic or sexual violence]," (820 ILCS 180/25). Contact the board attorney for advice resolving this ambiguity.

Leaves to Serve as an Officer or Trustee of a Specific Organization

Upon request, the Board will grant: (1) an unpaid leave of absence to an elected officer of a State or national teacher organization that represents teachers in collective bargaining negotiations,<sup>22</sup> (2) twenty days of paid leave of absence per year to a trustee of the Teachers' Retirement System in accordance with 105 ILCS 5/24-6.3,<sup>23</sup> and (3) a paid leave of absence for the local association president of a State teacher association that is an exclusive bargaining agent in the District, or his or her designee, to attend meetings, workshops, or seminars as described in 105 ILCS 5/24-6.2. <sup>24</sup>

LEGAL REF.: 10 ILCS 5/13-2.5  
20 ILCS 1805/30.1 et seq.  
105 ILCS 5/24-6, 5/24-6.1, 5/24-6.2, 5/24-6.3, 5/24-13, and 5/24-13.1.  
820 ILCS 147/, School Visitation Rights Act.  
820 ILCS 154/, Child Bereavement Leave Act.  
820 ILCS and 180/, Victims' Economic Security and Safety Act.

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical Leave), 5:330 (Educational Support Personnel - Sick Days, Vacation, Holidays, and Leaves)

---

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

<sup>22</sup> Required by 105 ILCS 5/24-13.

<sup>23</sup> Required by 105 ILCS 5/24-6.3. See 5:330, *Educational Support Personnel - Sick Days, Vacation, Holidays, and Leaves*, for the leave for an elected trustee for the Ill. Municipal Retirement Fund.

<sup>24</sup> Required by 105 ILCS 5/24-6.2.

## Educational Support Personnel

### Employment Termination and Suspensions 1

#### Resignation and Retirement

An employee is requested to provide ~~2~~two weeks' notice of a resignation.<sup>2</sup> A resignation notice cannot be revoked once given. An employee planning to retire should notify his or her supervisor at least ~~2~~two months before the retirement date.

#### Non-RIF Dismissal 3

The District may terminate an at-will employee at any time for any or no reason, but not for a reason prohibited by State or federal law.

Employees who are employed annually or have a contract, or who otherwise have a legitimate expectation of continued employment, may be dismissed: (1) at the end of the school year or at the

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

<sup>1</sup> 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. School officials should consult with their attorneys before adopting this policy or taking any action under it.

If a local collective bargaining agreement contains provisions that exceed these requirements, 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. The local collective bargaining agreement may contain provisions that exceed these requirements. When a policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the current [insert name of educational support CBA]."

Administrative procedures implementing this policy should include guidelines for exit interviews. These guidelines should include a list of items to discuss with the employee, e.g., the reasons for the termination; how the district could improve its policies, procedures, and working conditions; how to reduce employee turnover; and information about the employee's benefits, including continued health insurance coverage.

#### <sup>2</sup> Optional provision:

In most cases, resigning employees are permitted to work until their effective resignation date.

<sup>3</sup> If employed at-will, the employee may be dismissed at any time for a non-discriminatory reason unless the dismissal is for a reduction in force. See ~~policy-5:270, Employment At-Will, Compensation, and Assignment~~. **Important:** whether a specific employee is actually employed at-will depends on the specific facts. Griggsville-Perry Community Unit Sch. ~~ool~~ Dist. v. Ill. Educ. Labor Relations Bd., 368 Ill. Dec. 494984 N.E.2d 440 (Ill. 2013) (upheld an arbitrator's finding that the requirement to provide a pre-discharge written notice was drawn from the essence of the agreement); Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532405 S.Ct. 1487 (1985). See also Baird v. Warren Comm. Unit Sch. ~~ool~~ Dist., 389 F.3d 685 (7th Cir., 2004)(because board members denied a dismissed superintendent procedural due process rights, they were denied qualified immunity).

It is safest to presume that all non-licensed employees are employed for the school year because districts routinely assure next-year employment so that the employee will not qualify for summer unemployment. In addition, annual employment may be created through a collective bargaining agreement, past practice, an employees' handbook, personnel policy manual, an oral promise, or any type of specific annual allocation per year, e.g., vacation or sick day allotments. Thus, the sample policy addresses those employees "with an annual or longer contract or who otherwise have a legitimate expectation of continued employment." A dismissal at the end of the school year or end of a contract generally requires only minimal due process. A mid-year or mid-contract dismissal will require significantly greater due process.

Even if an employee is at-will, a district should consider giving a dismissal reason. The failure to give a reason may provoke an employee into challenging the dismissal, e.g., by alleging illegal discrimination or retaliation for exercising a protected right or whistleblowing.

Consult the board attorney to determine: (1) which employees are at-will, have annual employment, or have a different expectation for their length of employment, and (2) the level of due process to provide specific employees in the event of a dismissal.

end of their respective contract after being provided appropriate notice and after compliance with any applicable contractual provisions, or (2) mid-year or mid-contract provided appropriate due process procedures are provided.

The Superintendent is responsible for making dismissal recommendations to the School Board consistent with the Board's goal of having a highly qualified, high performing staff.

#### Reduction in Force and Recall 4

The Board may, as necessary or prudent, decide to decrease the number of educational support personnel or to discontinue some particular type of educational support service and, as a result of that action, dismiss or reduce the hours of one or more educational support employees. When making decisions concerning reduction in force and recall, the Board will follow Sections 10-22.34c (outsourcing non-instructional services) and 10-23.5 (procedures) of the School Code, to the extent they are applicable and not superseded by legislation or an applicable collective bargaining agreement.

#### Final Paycheck

A terminating employee's final paycheck will be adjusted for any unused, earned vacation credit.<sup>5</sup> Employees are paid for all earned vacation. Terminating employees will receive their final pay on the next regular payday following the date of termination, except that an employee dismissed due to a reduction in force shall receive his or her final paycheck on or before the next regular pay date following the last day of employment. <sup>6</sup>

#### Suspension

Except as provided below, the Superintendent is authorized to suspend an employee without pay as a disciplinary measure, during an investigation into allegations of misconduct or pending a dismissal hearing whenever, in the Superintendent's judgment, the employee's presence is detrimental to the District. A disciplinary suspension shall be with pay: (1) when the employee is exempt from the overtime provisions,<sup>7</sup> or (2) until an employee with an employment contract for a definite term is provided a notice and hearing according to the suspension policy for professional employees.<sup>8</sup> Upon

---

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

<sup>4</sup> 105 ILCS 5/10-23.5 grants educational support personnel significant protection during a RIF. Unless otherwise defined by a collective bargaining agreement, the board can define the position categories for a seniority list. Cook v. Eldorado Community Unit School-Sch. District, 354 Ill.App. 3d 256820 N.E.2d 484 (5th Dist.Ill.App.5, 2004). While the statute gives boards the discretion to define *categories of positions*, boards may not define *categories* differently for lay-off/recall purposes than for other purposes.

105 ILCS 5/10-22.34c governs layoffs as a result of a third party non-instructional services contract. See Community Unit School-Sch. Dist. No. 5 v. Ill. Educational-Educ. Labor Relations Board, 382 Ill.Dec. 12042 N.E.3d 120 (4th Dist. Ill.App.4,2014)(no unfair labor practice occurred when a school employer outsourced its transportation services and dismissed bus drivers as a result of bona fide and legitimate reasons, not anti-union animus, and the district had bargained in good faith with the union.

<sup>5</sup> A district may also adjust an employee's final paycheck for advanced vacation leave, *provided* that the employee agreed to deduct a specified amount of pay equaling the advanced vacation. (56 Ill.Admin.Code §300.760). If employees are required to execute such an agreement before taking unearned vacation leave, add the following phrase to this sentence: "or, if the employee agreed in writing, vacation time taken that was not earned."

<sup>6</sup> These final paycheck requirements are in 105 ILCS 5/10-23.5.

<sup>7</sup> 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. 452417 S.Ct. 905 (1997). 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.

<sup>8</sup> A suspension of an employee having a protected property right in continued employment requires a notice and hearing. See f/n 3 for additional discussion.



receipt of a recommendation from the Ill. Dept. Children and Family Services (DCFS) 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, in consultation with the Board Attorney, will determine whether to: <sup>9</sup>

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

Any criminal conviction resulting from the investigation or allegations shall require the employee to repay to the District all compensation and the value of all benefits received by the employee during the suspension. The Superintendent will notify the employee of this requirement when the employee is suspended. <sup>10</sup>

LEGAL REF.: 5 ILCS 430 et seq.  
105 ILCS 5/10-22.34c and 5/10-23.5.  
325 ILCS 5/7.4(c-10).  
820 ILCS 105/4a.

CROSS REF.: 5:240 (Professional Personnel - Suspension), 5:270 (Educational Support Personnel - Employment At-Will, Compensation, and Assignment)

---

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

<sup>9</sup> This sentence is optional. 325 ILCS 5/7.4(c-5), amended by P.A. 100-176, eff. 1-1-18. Consult the board attorney about suspending an employee without pay pursuant to a DCFS 325 ILCS 5/7.4(c-5)-recommendation. This sample language balances the interests of student safety and employee due process when the district receives a recommendation to 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 Comm. 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).

<sup>10</sup> The repayment requirements in the first sentence of this paragraph are in 5 ILCS 430/5-60(b). The second sentence is optional.

## Educational Support Personnel

### Sick Days, Vacation, Holidays, and Leaves <sup>1</sup>

Each of the provisions in this policy applies to all educational support personnel to the extent that it does not conflict with an applicable collective bargaining agreement or individual employment contract or benefit plan; in the event of a conflict, such provision is severable and the applicable bargaining agreement or individual agreement will control.

#### Sick and Bereavement Leave <sup>2</sup>

Full or part-time educational support personnel who work at least 600 hours per year receive 10 paid sick leave days per year. Part-time employees will receive sick leave pay equivalent to their regular

---

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

<sup>1</sup> 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. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. Alternatively, if the policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the applicable collective bargaining agreement current [insert name of educational support CBA]."

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA), 29 U.S.C. §2612, amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (Pub.L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (1) the birth and first-year care of a child; (2) the adoption or foster placement of a child; (3) the serious health condition of an employee's spouse, parent, or child; (4) the employee's own serious health condition; (5) the existence of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on (or has been notified of an impending call to) *covered active duty* in the Armed Forces; and (6) to care for the employee's spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness. The definition of *covered servicemember* includes a veteran "who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness" if the veteran was a member of the Armed Forces "at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy." Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee's FMLA entitlement. (29 C.F.R. §825.207). See ~~policy-5:185, Family and Medical Leave~~.

A plethora of State laws grant leaves to employees of the State and municipalities, but are not applicable to school districts, including the Employee Blood Donation Leave Act (820 ILCS 149/), Local Government Disaster Service Volunteer Act (50 ILCS 122/), Organ Donor Leave Act (5 ILCS 327/), and Civil Air Patrol Leave Act (820 ILCS 148/).

<sup>2</sup> This section contains the minimum benefits provided by 105 ILCS 5/24-6. Each specified number of days in this section is the statutory minimum. The School Code does not address whether an employee's 10 paid sick leave days are available upon employment, accrued over months, or after working for a certain period of time, e.g., one year. Also be aware that the Employee Sick Leave Act (820 ILCS 191/, added by P.A. 99-841), ~~eff. 1-1-17~~, allows employees to use employer-provided sick leave to care for an ill or injured *family* member or to attend a medical appointment with a family member. The law defines family members as a child, ~~(biological, adopted, stepchild, or legal ward)~~, spouse, domestic partner, sibling, parent, mother- or father-in-law, grandchild, grandparent, or stepparent (Id. at 191/10(b)). Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury. Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements. Strict accounting of unused sick days is important to avoid:

1. Employees accumulating sick time on a full-time basis when they are truly working part-time hours;
2. Inconsistent treatment; and
3. Inaccurate reporting to IMRF (credit is given for full day unused sick days upon retirement), ~~(40 ILCS 5/7-139(a)(8))~~.

workday. Unused sick leave shall accumulate to a maximum of 180 days, including the leave of the current year. <sup>3</sup>

Sick leave is defined in State law as personal illness, quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, or placement for adoption. The Superintendent and/or designee shall monitor the use of sick leave.

As a condition for paying sick leave after three days absence for personal illness or 30 days for birth or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may require that the staff member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, (2) a chiropractic physician licensed under the Medical Practice Act, (3) an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, (4) a physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (5) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than three days for personal illness, the District shall pay the expenses incurred by the employee.

The use of paid sick leave for adoption or placement for adoption is limited to 30 days unless a longer leave is provided in an applicable collective bargaining agreement. The Superintendent may require that the employee provide evidence that the formal adoption process is underway. <sup>4</sup>

#### Vacation <sup>5</sup>

Twelve-month employees shall be eligible for paid vacation days according to the following schedule:

---

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

<sup>3</sup> As this policy is consistent with the minimum requirements of State law, this provision on the maximum number of sick days that may be accumulated is based on the minimum number required as stated in 105 ILCS 5/24-6. The number may be increased to meet or exceed the number IMRF will recognize for retirement credit purposes. The following alternative does this: "Unused sick leave shall accumulate to the maximum number of days that IMRF will recognize for retirement credit purposes."

The following optional provisions apply to boards that want to address the IMRF's requirement that public bodies must have a written plan allowing eligible employees to convert their eligible accumulated sick leave to service credit upon their retirement. See 40 ILCS 5/7-139(a)(8), and ~~See~~ also IMRF General Memorandum #555 at:

[www.imrf.org/en/publications-and-archive/general-memos/2007-general-memos/general-memo-555](http://www.imrf.org/en/publications-and-archive/general-memos/2007-general-memos/general-memo-555)).

**Option 1:** No collective bargaining agreement applies and the board wants to publicize its written plan. Insert the following sentence: This policy is the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon a District employee's retirement under the Illinois Municipal Retirement Fund.

**Option 2:** A local collective bargaining agreement contains the written plan and the board wants to publicize it. Insert the following sentence: Please refer to the applicable collective bargaining agreement(s) for the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon an employee's retirement under the Illinois Municipal Retirement Fund.

**Option 3:** A district maintains two separate sick leave plans, one for employees under a collective bargaining agreement, and one for non-unionized employees. Insert the text for both Option 1 and Option 2.

**Note:** If Options 1, 2, or 3 are chosen, add 40 ILCS 5/7-139 to the Legal References. If the board does not have a written sick leave plan for purposes of IMRF sick leave to service credit conversion or does not wish to include it in the policy, do not include any of the options above or add the citation to the Legal Reference.

<sup>4</sup> 105 ILCS 5/24-6.

<sup>5</sup> State law does not require districts to give employees vacations.

<u>Length of Employment</u>		<u>Monthly Accumulation</u>	<u>Maximum Vacation Leave Earned Per Year</u>
<u>From:</u>	<u>To:</u>		
Beginning of year 2	End of year 5	0.83 Days	10 Days per year
Beginning of year 6	End of year 15	1.25 Days	15 Days per year
Beginning of year 16	End of year	1.67 Days	20 Days per year

Part-time employees who work at least half-time are entitled to vacation days on the same basis as full-time employees, but the pay will be based on the employee's average number of part-time hours per week during the last vacation accrual year. The Superintendent will determine the procedure for requesting vacation.

Vacation days earned in one fiscal year must be used by the end of the following fiscal year; they do not accumulate. Employees resigning or whose employment is terminated are entitled to the monetary equivalent of all earned vacation. 6

### Holidays 7

Unless the District has a waiver or modification of the School Code pursuant to Section 2-3.25g or 24-2(b) allowing it to schedule school on a holiday listed below, District employees will not be required to work on:

New Year's Day	Labor Day
Martin Luther King Jr.'s Birthday	Columbus Day
Abraham Lincoln's Birthday	Veteran's Day
Casimir Pulaski's Birthday	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	

A holiday will not cause a deduction from an employee's time or compensation. The District may require educational support personnel to work on a school holiday during an emergency or for the continued operation and maintenance of facilities or property.

### Personal Leave 8

Full-time educational support personnel have one paid personal leave day per year. The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, a personal leave request should be submitted to the Building Principal three days before the requested date.

---

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

6 Required by 820 ILCS 115/5 and 56 Ill.Admin.Code §300.520 (Earned Vacations).

7 Holidays are listed in 105 ILCS 5/24-2. For information on the waiver process, see 2:20-E, *Waiver and Modification Request Resource Guide*. Holidays not specified in the statute may be added to the policy; however, boards adding additional holidays should monitor and review to ensure the list remains current.

A State-mandated school holiday on *Good Friday* is unconstitutional according to *Metzl v. Leininger*, 57 F.3d 618 (7th Cir. 1995). Closing school on religious holidays may be permissible for those districts able to demonstrate that remaining open would be a waste of educational resources because of widespread absenteeism. Also, districts may be able to close school on Good Friday by adopting a *spring holiday* rationale or ensuring that it falls within spring break. School districts should discuss their options, including the collective bargaining implications, with their board attorney.

8 State law does not address personal leave. It is not uncommon for boards to grant educational support personnel the same number of personal leave days as are granted to professional staff.

2. No personal leave day may be used immediately before or immediately after a holiday, or during the first and/or last five days of the school year, unless the Superintendent grants prior approval.
3. Personal leave may not be used in increments of less than one-half day.
4. Personal leave is subject to any necessary replacement's availability.
5. Personal leave may not be used on an in-service training day and/or institute training days.
6. Personal leave may not be used when the employee's absence would create an undue hardship.

Leave to Serve as a Trustee of the Illinois Municipal Retirement Fund

Upon request, the Board will grant 20 days of paid leave of absence per year to a trustee of the Illinois Municipal Retirement Fund in accordance with 105 ILCS 5/24-6.3. <sup>9</sup>

Other Leaves

Educational support personnel receive the following leaves on the same terms and conditions granted professional personnel in Board policy 5:250, *Leaves of Absence*:

1. Leaves for Service in the Military and General Assembly. <sup>10</sup>
2. School Visitation Leave. <sup>11</sup>
3. Leaves for Victims of Domestic or Sexual Violence. <sup>12</sup>
4. Child Bereavement Leave. <sup>13</sup>
5. Leave to serve as an election judge. <sup>14</sup>

---

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

<sup>9</sup> Required by 105 ILCS 5/24-6.3. A similar leave exists for an elected trustee for the Ill. Teachers' Retirement System. See 5:250, *Professional Personnel - Leaves of Absence*.

<sup>10</sup> Military leave is governed by: The School Code (105 ILCS 5/10-20.7b, 5/24-13, and ~~5/24-13.1~~); the Military Leave of Absence Act (5 ILCS 325/ added mandatory leave for "other training or duty required by the United States Armed Forces" and to require the public employer to make-up the difference between military pay and regular compensation); Service Member's Employment Tenure Act (330 ILCS 60/4); Public Employee Armed Services Rights Act (5 ILCS 330/4); National Guard Employment Rights (20 ILCS 1805/30.20); and Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301).

Granting General Assembly leave to ESPs is optional.

<sup>11</sup> 820 ILCS 147/. See ~~policy~~ 5:250, *Professional Personnel - Leaves of Absence*, and ~~administrative procedure~~ 5:250-AP, *School Visitation Leave*.

<sup>12</sup> Required by Victims' Economic Security and Safety Act ~~7~~ (820 ILCS 180/, amended by P.A. 99-765), ~~off-1-1-17~~, and 56 Ill.Admin.Code §280. Important information about this leave is discussed in f/ns 19 and 20 of ~~policy~~ 5:250, *Professional Personnel - Leaves of Absence*.

<sup>13</sup> 820 ILCS 154/, added by P.A. 99-703. Important information about this leave is discussed in f/n 4 of ~~policy~~ 5:250, *Professional Personnel - Leaves of Absence*.

<sup>14</sup> 10 ILCS 5/13-2.5.

LEGAL REF.: 20 ILCS 1805/30.1 et seq.  
105 ILCS 5/10-20.7b, 5/24-2, and 5/24-6.  
820 ILCS 147 and 180/.  
820 ILCS 154/.  
School Dist. 151 v. ISBE, ~~507 N.E.2d 134~~154 Ill.App.3d 375 (~~Ill.App.1st Dist.~~,  
1987); Elder v. ~~School Sch.~~ Dist. No.127 1/2, ~~208 N.E.2d 423~~60 Ill.App.2d 56  
(~~Ill.App.1st Dist.~~, 1965).

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical  
Leave), 5:250 (Professional Personnel - Leaves of Absence)

## Instruction

### School Year Calendar and Day <sup>1</sup>

#### School Calendar

The School Board, upon the Superintendent's recommendation and subject to State regulations, annually establishes the dates for opening and closing classes, teacher institutes and in-services, the length and dates of vacations, and the days designated as legal school holidays.<sup>2</sup> The school calendar shall have a minimum of 185 days to ensure 176 days of actual student attendance. <sup>3</sup>

#### Commemorative Holidays

The teachers and students shall devote a portion of the school day on each commemorative holiday designated in the School Code to study and honor the commemorated person or occasion.<sup>4</sup> The Board may, from time to time, designate a regular school day as a commemorative holiday.

---

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

<sup>1</sup> 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.

<sup>2</sup> State-mandated school holidays are found in 105 ILCS 5/24-2. See policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing. The law allows a school board to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on five identified school holidays if: (1) the school board first holds a public hearing on the proposal; and (2) the person or persons honored by the holiday are recognized through instructional activities conducted on the school holiday or on the first school day preceding or following the school holiday. This is an item on which collective bargaining may be required, and a board that wishes to implement this law should consult its attorney.

A State mandated school holiday on "Good Friday" is unconstitutional according to *Metzl v. Leininger*, 57 F.3d 618 (7th Cir., 1995). Closing school on religious holidays may still be permissible for those districts able to demonstrate—e.g., through surveys—that remaining open would be a waste of educational resources due to widespread absenteeism. Also, districts may be able to close school on Good Friday by adopting a "spring holiday" rationale or ensuring that it falls within spring break. School districts should discuss all of these options, and collective bargaining implications with their board attorneys.

If the county board or board of election commissioners chooses a school to be a polling place, the school district must make the school available—(10 ILCS 5/11-4.1, amended by P.A. 98-773). For the Election Day, the law encourages a school district to either (1) close the school, or (2) hold a teachers' institute on that day with the students not in attendance (*Id.*).

<sup>3</sup> The school calendar must have a minimum 185 days to ensure 176 days of actual pupil attendance—(105 ILCS 5/10-19 and 5/24-1; 23 Ill.Admin.Code §1.420). Schools must be closed during county institute—(105 ILCS 5/24-3). The school calendar may be a mandatory subject of collective bargaining. The calendar for the school term and any changes must be submitted to and approved by the regional superintendent before the calendar or changes may take effect—(105 ILCS 5/10-19).

<sup>4</sup> 105 ILCS 5/24-2, amended by P.A. 98-156, lists the following as commemorative holidays: Jan. 28 (Christa McAuliffe Day commemorating space exploration), Feb. 15 (Susan B. Anthony), Mar. ~~ch~~ 29 (Vietnam War Veterans' Day), the school day immediately preceding Veterans' Day (Korean War Veterans' Day), Oct. 1 (Recycling Day), Oct. 7 (Iraq and Afghanistan Veterans Remembrance Day), and Dec. 7 (Pearl Harbor Veterans' Day).

Other commemorative holidays include: Arbor and Bird Day on the last Friday in ~~April~~ Apr. (105 ILCS 5/27-18), Leif Erickson day on Oct. 9 if a school day and otherwise on a school day nearest the date (105 ILCS 5/27-19), American Indian Day on the 4th Friday of Sept. (105 ILCS 5/27-20), Ill. Law Week during the first full school week in May (105 ILCS 5/27-20.1), "Just Say No" Day on a school day in May (105 ILCS 5/20.2), a Day of Remembrance on Sept. 11 (5 ILCS 490/86), Ronald Reagan Day on Feb. 6 (5 ILCS 490/2), Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade on ~~March~~ Mar. 25 (5 ILCS 490/155), the first full week of Jan. ~~uary~~ as Emancipation Proclamation Week (5 ILCS 490/155), the third Thursday in May of each year is designated Volunteer Emergency Responder Appreciation Day (5 ILCS 490/126), and Mother Mary Ann Bickerdyke Day on the second Wednesday in May (5 ILCS 490/175, added by P.A. 98-144).

## School Day

The Board establishes the length of the school day with the recommendation of the Superintendent and subject to State law requirements.<sup>5</sup> The Superintendent or designee shall ensure that observances required by State law are followed during each day of school attendance. <sup>6</sup>

---

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

<sup>5</sup> A school day must consist of a minimum ~~5-five~~ clock hours under the direct supervision of a teacher or non-teaching volunteer providing non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a), in order to qualify as a full day for calculating state aid entitlement. ~~(105 ILCS 5/18-8.05(F); and 23 Ill.Admin.Code §1.420(f)).~~ Students in attendance for fewer than two hours of school work are not counted for calculating average daily attendance. ~~(23 Ill.Admin.Code §1.420(f)(4)).~~ **Note:** School districts may no longer count days of attendance less than ~~5-five~~ clock hours on the opening and closing of the school term, and upon the first day of pupil attendance, if preceded by a day or days utilized as an institute or teachers' workshop. 105 ILCS 5/18-8.05(F)(1), amended by P.A. 100-147, eff. 1-1-18, requires districts to report to ISBE, their average daily attendance figures for each month of the school year, broken down by grade level.

Contrast 105 ILCS 5/18-12, amended by P.A. 100-28. It allows a partial day of attendance to be counted as a full day due to an adverse weather condition, condition beyond the control of the school district that poses a health and safety threat, or use of school facilities by local or county authorities for holding a memorial or funeral service in remembrance of a community member (up to two school days per school year) provided one of following conditions is met when: (1) the school district has provided at least one hour of instruction prior to the closure of the school district; (2) a school building has provided at least one hour of instruction prior to the closure of the school building; or (3) the normal start time of the school district is delayed. ~~The law also outlines the process to claim attendance prior to providing any instruction when a school district must close a building or buildings, but not the entire district, after consultation with a local emergency response agency or due to a condition beyond the control of the district. Additionally, 105 ILCS 5/18-12.5 outlines the process for claiming attendance when a school district must close a building or buildings, but not the entire district, specifically because of a public health emergency. Attendance for such days may only be claimed if the school building(s) was scheduled to be in operation on those days.~~

Alternative education programs may provide fewer than five hours under certain circumstances. ~~(105 ILCS 5/2-3.33a and 5/13B-50).~~ Exceptions also exist for kindergarten, teaching hospitalized or homebound students, first-grade, disabled children less than ~~6-six~~ years old, in-service training for teachers in accordance with 105 ILCS 5/10-22.39, parent-teacher conferences, and days when the Prairie State Achievement Examination is administered (105 ILCS 5/18-8.05(F)).

<sup>6</sup> 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. Note that the Illinois statute does not require every student to recite the Pledge – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the Pledge, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the Pledge. West Virginia State Board of Education Educ. v. Barnette, 319 U.S. 624 (1943); Sherman v. Community Consolidated School Sch. District-Dist. 21 of Wheeling Township, 980 F.2d 437 (7th Cir. 1992). Consider using permissive rather than mandatory language to introduce the recitation of the Pledge, such as, “You may now stand to recite the Pledge.” Schools may, of course, require that non-participants maintain order and decorum appropriate to the school environment.

~~On 10-11-07, an Illinois law went into effect. The Silent Reflection and Student Prayer Act requiring a mandatory mandates a brief period of silence for all Illinois public school students at the opening of each school day. (Silent Reflection and Student Prayer Act, 105 ILCS 20/1). A student filed a federal lawsuit challenging the constitutionality of this law under the First Amendment, but the law was ultimately upheld by the Appeals Court. Sherman v. Koch, 623 F.3d 501(7th Cir. 2010), cert denied by 565 U.S. 815 (2011). A student filed a federal lawsuit alleging that the brief period of silence law was unconstitutional because it is too vague and violates the First Amendment. Sherman v. THSD 214 and Koch, 624 F.Supp.2d 907 (N.D.Ill., 2007). The court issued a preliminary injunction to prevent the plaintiff student's school district from implementing the Act and State Superintendent Koch from enforcing it. The court granted plaintiff's request to make the lawsuit a class action—the defendant class comprising all Illinois public school districts. After the case's merits are heard, the preliminary injunction may be made permanent or be rescinded. School districts must follow court orders and the State Superintendent's instructions.~~

105 ILCS 5/10-24.46 requires a moment of silence to recognize veterans during any type of event held at a district school on November-Nov. 11. See f/n 2 above for more discussion.



LEGAL REF.: 105 ILCS 5/10-19, 5/10-24.46, 5/18-8.05, 5/18-12, 5/18-12.5, 5/24-2, 5/27-3, 5/27-18, 5/27-19, 5/27-20, 5/27-20.1, 5/27-20.2, and 20/1.  
10 ILCS 5/11-4.1.  
23 Ill.Admin.Code §1.420(f).  
Metzl v. Leininger, 850 F.Supp. 740 (N.D. Ill., 1994), *aff'd by* 57 F.3d 618 (7th Cir., 1995).

CROSS REF.: 2:20 (Powers and Duties of the School Board; Indemnification), 5:200 (Terms and Conditions of Employment and Dismissal), 5:330 (Sick Days, Vacation, Holidays, and Leaves), 6:60 (Curriculum Content), 6:70 (Teaching About Religions), 7:90 (Release During School Hours)

## Instruction

### School Wellness 1

Student wellness, including good nutrition and physical activity, shall be promoted in the District's educational program, school-based activities, and meal programs.<sup>2</sup> This policy shall be interpreted consistently with Section 204 of the Child Nutrition and WIC Reauthorization Act of 2004 and the Healthy Hunger-Free Kids Act of 2010 (HHFKA).<sup>3</sup>

The Superintendent ~~or designee~~ will ensure: 4

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

<sup>1</sup> State or federal law requires this subject matter to be covered in policy and controls its content. The federal Child Nutrition and WIC Reauthorization Act of 2004 (Child Nutrition Act) requires school districts participating in a program authorized by the National School Lunch Act (NSLA, 42 U.S.C. §1751 et seq.) or the Child Nutrition Act to have a school wellness policy. (Pub. L. 108-265, Sec. 204). State law required ISBE to "establish a State goal that all school districts have a wellness policy." (105 ILCS 5/2-3.139). ISBE complied in October 2007 by "instruct[ing] all public school districts to establish a School Wellness Policy." The federal and State laws list mandatory topics for the policy. The second sentence of this policy should be deleted if the district does not participate in the ~~National School Lunch Act~~NSLA or the Child Nutrition Act.

See ISBE's numerous resources at: [www.isbe.net/Pages/Nutrition-and-Wellness.aspx](http://www.isbe.net/Pages/Nutrition-and-Wellness.aspx). Action for Healthy Kids is a national organization dedicated to overcoming the "epidemic of overweight, undernourished and sedentary youth by focusing on changes in schools;" see its resources at: [www.actionforhealthykids.org/index.php](http://www.actionforhealthykids.org/index.php).

This sample policy seeks to be both legally compliant and consistent with good governance principles. Both federal and State laws allow each school district to determine how the required topics are addressed. Good governance principles suggest that the board should establish goals with community and stakeholder input. The administration should determine how to achieve the goals. The board should monitor this policy by requesting and reviewing periodic implementation data.

The Ill. Dept. of Agriculture and ISBE are directed to create the Farm Fresh Schools Program, (105 ILCS 124/, Farm Fresh Schools Program Act; 30 ILCS 105/5.728, Farm Fresh Schools Program Fund). They are also directed to administer a grant program to further the Program's intent of "reduc[ing] obesity and improve[ing] nutrition and public health, as well as strengthen[ing] local agricultural economies by increasing access to and promoting the consumption of locally grown fruits and vegetables in schools and increasing physical activities and programs that promote pupil wellness." 105 ILCS 124/10.

<sup>2</sup> 7 C.F.R. §210.310(a) and (c)(1). The law does not require school-based activities to be listed in policy – only that boards implement them. Federal law requires consideration of evidence-based strategies and techniques when implementing school-based activities. A board that chooses to list these activities must update them as they change by readopting the policy.

For boards that have developed and wish to list their chosen evidence-based school-based activities, add the following sentence to the paragraph as the second sentence: "The District's school-based activities include: [list the chosen evidence-based school-based activities]."

For boards that have not yet developed and implemented their evidence-based school-based activities and need technical assistance, see the websites for:

1. The U.S. Dept. of Agriculture (USDA) at: <https://healthymeals.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/other-school-based-activities>; and

2. The Alliance for a Healthier Generation (AHG) at: <https://www.healthiergeneration.org/>.

<sup>3</sup> Healthy Hunger-Free Kids Act of 2010 (HHFKA); 42 U.S.C. §1758b (Pub.L. 111-296); 7 C.F.R. §§210.10 and 210.310(a).

<sup>4</sup> Id.; 7 C.F.R. §210.31(c)(4) (identification of school official responsible for implementation of the policy), §210.31 (d)(2) (informing the public about the policy and making it available on an annual basis), §210.31 (d)(3) (informing the public of the progress toward meeting the goals of the policy by making triennial assessments available), and §210.31(e) (policy implementation, assessments, and updates). See also f/n 20, below.

This sample policy identifies the superintendent as the school official responsible to ensure compliance and oversee the policy. When the rules require specific identification of a school official, the policy does not include the delegation language or designee. [School boards] must identify the [school official(s)] responsible for oversight of [its wellness policy] to ensure compliance. [Boards] have discretion and are the most qualified to identify the best candidate for [their wellness] policy leadership as size, resources, and needs vary greatly among [school districts]. See Federal Register Vol. 81, No. 146 at 50155 at: [www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf](http://www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf).

1. ~~Each school building complies with this policy;~~
2. ~~The policy is available to the community on an annual basis through copies of or online access to the Board Policy Manual;~~ and
3. ~~That the community is informed about the progress of this policy's implementation.~~

#### Goals for Nutrition Education and Nutrition Promotion <sup>6</sup>

The goals for addressing nutrition education and nutrition promotion include the following:

- Schools will support and promote sound nutrition for students.
- Schools will foster the positive relationship between sound nutrition, physical activity, and the capacity of students to develop and learn.
- Nutrition education will be part of the District's comprehensive health education curriculum. See ~~School~~-Board policy 6:60, *Curriculum Content*. <sup>7</sup>

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

~~For boards that wish to identify a school official other than the superintendent, delete Superintendent and replace it with the responsible school official's title.~~

The intent of the rule is that schools "notify households on an annual basis of the availability of the local school wellness policy information and provide information that would enable *interested households* to obtain additional details." (Fed. Reg. Vol. 81, No. 146 at 50160). However, the rule states, "[i]nform the *public* about the content and implementation of the local school wellness policy, and make the policy and any updates to the policy available to the public on an annual basis."

To achieve the intent of this requirement, the regulations suggest several methods for districts, which include a common method many districts likely already use: post the policy on the websites for the *public*, and use the student handbook to distribute important information to *interested households*.

~~Members of the Ill. Principals Assoc. may subscribe to the IPA's Model Student Handbook Service. While this service is not a handbook per se, it provides principals with quick, user friendly access to model student handbook provisions that are attorney drafted and fully aligned with IASB's policy services. See [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).~~

<sup>5</sup> ~~For boards that distribute their wellness policies via student handbooks and want to list that in the text of their policies, insert "and distributed to students and their parents/guardians through student handbooks". For sample handbook language, see the Illinois Principals Association Online Model Student Handbook (MSH) at: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).~~

<sup>6</sup> ~~Goals for nutrition education and nutrition promotion This is are required topics, but the local board may determine what goals are appropriate. (Pub. L. 108-265, Sec. 204(a)(1) and Pub. L. 111-296; 105 ILCS 5/2-3.139(a)(2); and 7 C.F.R. §210.310(c)(1). Replace this policy's text with a board's own locally-developed nutritional education and promotion goals.~~

~~Nutrition promotion is now required by Pub. L. 111-296, but the concept is not well-described or defined. The Food Nutrition Service (FNS) describes nutrition promotion more clearly in its technical assistance materials and the proposed 7 C.F.R. Part 210 rules (Fed. Reg. Vol. 79, No. 38 at 10695), dated Feb. 26, 2014, which state, "... evidence based techniques and scientifically-based nutrition messages targeted to a specific audience to inspire and motivate them to take action and use these techniques and messages to create environments and food service venues (classroom, cafeteria, a la carte, vending machines, school stores, snack bars, fundraisers, home, etc.) that encourage healthy nutrition choices, as well as enhance and encourage participation in school meal programs."~~

~~More specific materials about nutrition education and promotion, including songs, games, posters, videos, event-planning booklets, wellness communication toolkits, school garden activities, and a graphics library, have also been developed by the FNS' Team Nutrition at: [www.fns.usda.gov/tn/resource-library](http://www.fns.usda.gov/tn/resource-library).~~

~~Technical assistance for:~~

1. ~~Nutritional education at: [healthymeals.fns.usda.gov/nutrition-education-9](http://healthymeals.fns.usda.gov/nutrition-education-9).~~
2. ~~Nutritional promotion at: [healthymeals.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/nutrition-promotion](http://healthymeals.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/nutrition-promotion).~~
3. ~~Goals development for and implementation of nutrition education and promotion are available from AHG at: [www.healthiergeneration.org/](http://www.healthiergeneration.org/).~~

~~<sup>7</sup> 105 ILCS 110/3 and 23 Ill.Admin.Code §1.420(n). ISBE's rules for Comprehensive Health Education found at 23 Ill.Admin.Code Part 253 were repealed, eff. 10-3-05.~~

## Goals for Physical Activity <sup>8</sup>

The goals for addressing physical activity include the following:

- Schools will support and promote an active lifestyle for students.
- Physical education will be taught in all grades and shall include a developmentally planned and sequential curriculum that fosters the development of movement skills, enhances health-related fitness, increases students' knowledge, offers direct opportunities to learn how to work cooperatively in a group setting, and encourages healthy habits and attitudes for a healthy lifestyle. See Board policy 6:60, *Curriculum Content* and Board policy 7:260, *Exemption from Physical Education*. <sup>9</sup>
- During the school day, all students will be required to engage in a daily physical education course, unless otherwise exempted. See Board policy 6:60, *Curriculum Content* and Board policy 7:260, *Exemption from Physical Education*. <sup>10</sup>
- The curriculum will be consistent with and incorporate relevant *Illinois Learning Standards for Physical Development and Health* as established by the Illinois State Board of Education (ISBE). <sup>11</sup>

## Nutrition Guidelines for Foods Available During the School Day; ~~Marketing Prohibited~~ <sup>12</sup>

Students will be offered and schools will promote nutritious food and beverage choices during the school day that are consistent with ~~the Board policy 4:120, Food Services (requiring compliance with the nutrition standards specified in the U.S. Dept. of Agriculture's (USDA) Smart Snacks rules) current Dietary Guidelines for Americans published jointly by the U.S. Departments of Health and Human Services and Agriculture (USDA),~~ <sup>13</sup>.

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

<sup>8</sup> This is a required topic, but the local board may determine what goals are appropriate. (Pub. L. 108-265, Sec. 204(a)(1); 105 ILCS 5/2-3.139(a)(2); and 7 C.F.R. §210.319(a) ~~and (c)(1)~~).

<sup>9</sup> 105 ILCS 5/27-5 and 27-6; 23 Ill.Admin.Code §1.425 (added at 40 Ill. Reg. 2990). See also f/n 19 in policy 6:60, Curriculum Content. For standards-based lesson plans and curricula for pre-kindergarten through grade eight, classroom-based lesson plans, recipes, guidance to improve the quality of school meals, and other materials for nutrition education and promotion, including songs, games, posters, videos, event-planning booklets, wellness communication toolkits, school garden activities, and a graphics library, see the resources developed by the FNS' Team Nutrition at: [www.fns.usda.gov/tn/resource-library](http://www.fns.usda.gov/tn/resource-library).

<sup>10</sup> Id.

<sup>11</sup> Schools must "set student learning objectives which meet or exceed goals established by the State," (105 ILCS 5/2-3.63). The *Learning Standards* can be found on ISBE's website, ~~at: [www.isbe.net/Pages/Learning-Standards.aspx](http://www.isbe.net/Pages/Learning-Standards.aspx)~~. See *State Goal 20: Achieve and maintain a health-enhancing level of physical fitness based upon continual self-assessment* at: [www.isbe.net/Pages/PE-Health-Learning-Standards.aspx](http://www.isbe.net/Pages/PE-Health-Learning-Standards.aspx).

105 ILCS 5/27-6.5 describes physical fitness assessments required, beginning with the 2016-17 school year and every school year thereafter, for grades 3-12 in an effort to meet State Goal 20 of the *Illinois Learning Standards for Physical Development and Health* (at: [www.isbe.net/Pages/PE-Health-Learning-Standards.aspx](http://www.isbe.net/Pages/PE-Health-Learning-Standards.aspx)). See also 23 Ill.Admin.Code §1.425 (g), (h); ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers* (Rev. ~~4/7/16~~ 2-2-17) at: [www.isbe.net/Documents/fitness-asmt-faq.pdf](http://www.isbe.net/Documents/fitness-asmt-faq.pdf).

<sup>12</sup> The policy must include the nutrition guidelines selected by the board for "all foods available during the school day with the objective of promoting student health and reducing childhood obesity," (Pub. L. 108-265, Sec. 204(a)(2); 105 ILCS 5/2-3.139(a)(1); and 7 C.F.R. §210.10 and 210.319(a), (c)(2), and (c)(3)(i)-(iv). 42 U.S.C. 1758b(b)(2)(A) requires that each local school wellness policy include nutrition guidelines for all foods and beverages available for sale on the school campus during the school day to ensure they are consistent with the statutory and regulatory provisions governing school meals (7 C.F.R. §§210.10, 220.8 and 220.10) and competitive foods (7 C.F.R. §210.11) as applicable.

Prior to July 2016 when 7 C.F.R. § 210.10 and 7 C.F.R § 210.31(c) (respectively) became effective, the current *Dietary Guidelines for Americans* published jointly by the U.S. Departments of Health and Human Services and Agriculture (USDA) were used as nutrition guidelines.

<sup>13</sup> 7 C.F.R. §§210.10 (meal requirements for lunches and after-school snacks); 210.11(c) (general nutrition standards for competitive food, i.e., *Smart Snacks*); and 210.31(a) and (c) (encompassing all other nutrition requirements, including foods not sold to students during the school day (classroom parties)).

In addition, in order to promote student health and reduce childhood obesity,<sup>14</sup> the Superintendent or designee shall:

1. ~~R~~ restrict the sale of *competitive foods*, as defined by the USDA, in the food service areas during meal periods; ~~and~~
2. ~~C~~omply with all ISBE rules; ~~and~~
3. ~~Prohibit marketing during the school day of foods and beverages that do not meet the standards listed in Board policy 4:120, Food Services, i.e., in-school marketing of food and beverage items must meet competitive foods standards.~~<sup>15</sup>

~~Competitive foods standards do not apply to foods and beverages available, but not sold in school during the school day; e.g., brown bag lunches, foods for classroom parties, school celebrations, and reward incentives.~~<sup>16</sup>

---

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

<sup>14</sup> 7 C.F.R. §210.31(c)(3)(iv).

<sup>15</sup> 7 C.F.R. §§210.11(a)(2) ~~and 210.31(c)(3)(iii)~~; 23 Ill. Admin. Code §305.5. For a definition of *competitive foods*, see 4:120-AP, ~~Administrative Procedure—Food Services; Competitive Foods; Exemptions~~.

<sup>16</sup> 7 C.F.R. §210.31(c)(2). This sample policy does not apply competitive food standards to foods not sold in schools; i.e., foods that students bring into the school from home, etc.

~~The final [federal] rule does not require that local school wellness policy standards for foods provided in schools during the school day but not available for sale conform to the school meal requirements or the competitive foods standards. In fact, the preamble to the final rule reiterates this saying, “[a]gain, it should be noted that with regard to foods provided, but not sold, in schools, local jurisdictions have the discretion to adopt standards that conform to [the competitive food standards] or to adopt more or less stringent standards.” Similarly, the preamble to the final rule clearly states the rule does not require school boards to address standards for food brought from home for individual consumption. See Federal Register Vol. 81, No. 146 at 50158 at: [www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf](http://www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf). Emphasis added.~~

~~This sample policy adopts less stringent standards for foods not sold in schools. For boards that wish to adopt standards that conform to the competitive food standards or apply even more stringent standards to foods available, but not sold during the school day, delete the last sentence of this subhead: *Competitive foods standards do not apply to foods and beverages available, but not sold in school during the school day; e.g., foods for classroom parties, school celebrations, and reward incentives*, and choose one of the following sentences to replace it:~~

~~**Option 1:** The District applies *competitive foods* standards listed in Board policy 4:120, *Food Services*, to foods available, but not sold, in schools.~~

~~**Option 2:** The District applies more stringent standards than the *competitive foods* standards to foods available, but not sold, in schools. These include [*list the chosen standards to foods available, but not sold, in schools*].~~

~~The AHG encourages school officials to consider prohibiting foods as a reward and using the *Smart Snacks* standards for foods available, but not sold during the school day. However, enforcing such standards against students who are sent to school with snacks from their parents/guardians is difficult and may be considered overreach. Further, such a standard may open the district to challenges. Consult the board attorney about enforcement of standards that meet the *competitive foods* standards – or even more stringent ~~than them~~standards – upon foods available, but not sold during the school day, i.e., choosing Options 1 or 2, above.~~

### Exempted Fundraising Day (EFD) Requests 17

All food and beverages sold to students on the school campuses of participating schools during the school day must comply with the “general nutrition standards for competitive foods” specified in federal law.

#### ISBE rules prohibit EFDs for grades 8 and below in participating schools.

~~– unless –~~ The Superintendent or designee in a participating school ~~may~~ ~~has~~ granted an ~~exempted fundraising day~~ (EFD) for grades 9 through 12 in participating schools. To request an EFD and learn more about the District’s related procedure(s), contact the Superintendent or designee. The District’s procedures are subject to change. The number of EFDs for grades 9 through 12 in participating schools is set by ISBE rule.

### Guidelines for Reimbursable School Meals 18

Reimbursable school meals served shall meet, at a minimum, the nutrition requirements and regulations for the National School Lunch Program and/or School Breakfast Program. 19

### Monitoring 20

At least every three years, ~~the Superintendent or designee~~ shall ~~annually~~ provide implementation data and/or reports to the Board concerning this policy’s implementation sufficient to allow the Board to monitor and adjust the policy (a triennial report).<sup>21</sup> This triennial report must include without limitation each of the following:

- An assessment of the District’s implementation of the policy
- The extent to which schools in the District are in compliance with the policy
- The extent to which the policy compares to model local school wellness policies

---

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

17 Required by 23 Ill.Admin.Code §305.15(c)(2), ~~and~~ 7 C.F.R. §§~~210.1130(b)(4), (c)(2) and 210.30(c)(2)~~ for participating schools that want to grant EFDs.

For elementary districts, delete these sentences: The Superintendent or designee in a participating school may grant an EFD for grades nine9 through 12 in participating schools. To request an EFD and learn more about the District’s related procedure(s), contact the Superintendent or designee. The District’s procedures are subject to change. The number of EFDs for grades nine9 through 12 in participating schools is set by ISBE rule.

For high school districts, delete this sentence: EFDs are prohibited for grades eight and below in participating schools.

Detailed procedures are subject to change and are too complicated for policy text. This policy seeks to balance the requirement to include procedures in the policy for requesting an EFD by providing information about the initial steps and directing the superintendent or designee to inform the requestor of the current procedure. For a list of the number of available EFDs and a more detailed sample step-by-step procedure to request them, see 4:120-AP, ~~Administrative Procedure –Food Services; Competitive Foods; Exemptions.~~

18 Inclusion in the policy is required for only those districts that participate in a program authorized by the ~~NSLANational School Lunch Act~~ or the Child Nutrition Act ~~(Pub. L. 108-265, Sec. 204(a)(3)).~~

19 Child Nutrition Act of 1966 (42 U.S.C. §1771 ~~et seq.~~) and ~~NSLANational School Lunch Act~~ (42 U.S.C. §1758).

20 The policy must establish a plan for measuring implementation of the local wellness policy, including designation of one or more persons within the local educational agency at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local wellness policy.; ~~(Pub. L. 108-265, Sec. 204(a)(4); 105 ILCS 5/2-3.139(a)(4); and 7 C.F.R. §210.31(c)(5), and (6), and (e)(1).~~ 105 ILCS 110/3.5(a) requires ISBE to develop and maintain a nutrition and physical activity best practices database. Materials may be found at: [www.isbe.net/Pages/Nutrition-and-Wellness.aspx](http://www.isbe.net/Pages/Nutrition-and-Wellness.aspx).

42 U.S.C. §1758b (Pub. L. 111-296) requires the public to receive periodic measures with the listed items. The accepted practice is annual reports. There is very little guidance to assist school districts in complying with this requirement, and school districts were expected to be working toward developing a reasonable method to implement this requirement by the end of the 2011-2012 school year. Without guidance, to ensure compliance, superintendents should contact their Regional Office of Education regarding their school districts’ efforts to comply with this requirement. A guide to help school districts conduct an evaluation of local wellness policies is available, along with more guidance at: [www.fns.usda.gov/tn/healthy/wellnesspolicy\\_tools.html](http://www.fns.usda.gov/tn/healthy/wellnesspolicy_tools.html).

<sup>21</sup> 7 C.F.R. §210.31(e)(2)(i)-(iii) and (3).

- A description of the progress made in attaining the goals of the policy
- How the District will make the results of the assessment available to the public
- Where the District will retain records of the assessment **22**

The Board will monitor and adjust the policy pursuant to policy 2:240, *Board Policy Development*.

### Community Involvement **23**

The Board and Superintendent or designee will actively invite suggestions and comments concerning the development, implementation, periodic reviews, and updates ~~improvement~~ of the school wellness policy from parents, students, representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the community. Community involvement methods shall align their suggestions and comments to policy 2:140, *Communications To and From the Board* and/or the **Community Engagement** subhead in policy 8:10, *Connection with the Community*. **24**

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

**22** Id. and §210.31(f); see also the Local Records Act, 50 ILCS 205/. It governs retention of district records; its definition of *public record* is narrower than the definition in the Freedom of Information Act. These communications must be retained only when they contain: (1) evidence of the district's organization, function, policies, procedures, or activities, or (2) informational data appropriate for preservation. Consult the board attorney for a more thorough analysis and a legal opinion about how to meet both of the federal records retention requirements discussed in f/n 25, below, and the Local Records Act.

**23** A board must establish a *plan in its wellness policy* ~~that~~ for involving parents, students, and representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the public in the development of the school wellness policy. (Pub. L. 108-265, Sec. 204(a)(5), amended by 42 U.S.C. §1758b (Pub. L. 111-296); 105 ILCS 5/2-3.139(a)(3); 7 C.F.R. §210.31(c)(5) (requirement to describe involvement plan in policy) and 7 C.F.R. §210.31(d)(1) (requirement to allow certain stakeholders to participate in policy development, etc.).

School districts have discretion in exactly how they implement this requirement, and [e]ach [school district] is best suited to determine the distinctive needs of the community it serves. See Federal Register Vol. 81, No. 146 at 50155 at: [www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf](http://www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf).

This requirement's awkward wording notwithstanding, a board may take compliance steps by:

1. Seeking community input *or involvement* during this policy's adoption and monitoring phases, *and inviting suggestions and comments during the public comment portion of board meetings from time to time*. This method aligns with 2:140, *Communications To and From the Board* and ~~See~~ 2:240, *Board Policy Development*.
2. Establishing a "local school wellness committee." This method is discussed in the preamble to 7 C.F.R. §210.31(d)(1), which suggests "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 policy above] to participate ... ." See also the citation to the Federal Register, in the second paragraph of this f/n, above, discussing policy implementation discretion.

The default text of this policy follows item #1 above and does not establish a local school wellness committee. For a district that wants to appoint or approve a local school wellness committee, add the following optional sentence as the last sentence of this subhead: "As necessary, the Superintendent or designee will convene a Wellness Committee with at least one representative from each of the listed groups." Also list the Wellness Committee in 2:150-AP, *Superintendent Committees*. As much of the work of developing a plan to involve local stakeholders is administrative/staff work rather than governance work, best practice is for a Wellness Committee be an administrative committee, but consult the board attorney for guidance. See f/n 3 in policy 2:150, *Committees* for a discussion of Open Meetings Act implications of the Wellness Committee being a board committee.

If a board wants to comply with the USDA's *encouragement* to include Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators or educators in the group to provide input about the policy, add:

“, Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators, educators” to the end of the first sentence in this subhead, immediately before: “, and community.”

**24** If a board has not adopted the **Community Engagement** subhead in policy 8:10, *Connection with the Community*, delete the phrase at the end of the second sentence: “Individuals shall align their suggestions and comments to policy 2:140, *Communications To and From the Board* and/or the **Community Engagement** subhead in policy 8:10, *Connection with the Community*.”

A board may also choose to post this policy on its website and include it in the student handbook.

## Recordkeeping 25

The Superintendent ~~or designee~~ shall retain records to document compliance with this policy, the District's records retention protocols, and the Local Records Act.

- LEGAL REF.: Child Nutrition and WIC Reauthorization Act of 2004, Pub. L. 108-265, Sec. 204.  
Child Nutrition Act of 1966, 42 U.S.C. §1771 et seq.  
National School Lunch Act, 42 U.S.C. §1751 et seq.  
Healthy, Hunger-Free Kids Act of 2010, 42 U.S.C. §1758b, Pub. L. 111-296.  
42 U.S.C. §1779, as implemented by 7 C.F.R. §§210.11 and 210.319.  
Local Records Act, 50 ILCS 205/.  
105 ILCS 5/2-3.139.  
23 Ill.Admin.Code Part 305, Food Program.  
ISBE's "School Wellness Policy" Goal, adopted Oct. 2007.
- CROSS REF.: 2:140 (Communications To and From the Board), 2:150 (Committees), 2:240 (Board Policy Development), 4:120 (Food Services), 5:100 (Staff Development Program), 6:60 (Curriculum Content), 7:260 (Exemption from Physical Education), 8:10 (Connection with the Community)

---

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

**25** 7 C.F.R. §210.319(f). Records must include: (1) the policy;<sup>25</sup> (2) documentation demonstrating compliance with community involvement requirements, including requirements to make the local school wellness policy and triennial assessments available to the public; and (3) documentation of the triennial assessment of the local school wellness policy for each school under its jurisdiction.

See f/n 22, above regarding the Local Records Act and 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules.*

While 7 C.F.R. §210.31(f) does not require the policy text to state what records must be kept, a board that wants to include that information may insert the following text: "Records must include: (1) this policy; (2) documentation demonstrating compliance with community involvement, including requirements to make the policy and triennial assessments available to the public; and (3) documentation of the triennial assessment of this policy for each school under its jurisdiction."



## Instruction

### Curriculum Content<sup>1</sup>

The curriculum shall contain instruction on subjects required by State statute or regulation as follows:

1. In kindergarten through grade 8, subjects include: (a) language arts, (b) reading, (c) other communication skills, (d) science, (e) mathematics,<sup>2</sup> (f) social studies, (g) art, (h) music,<sup>3</sup> and (i) drug and substance abuse prevention.<sup>4</sup> A reading opportunity of 60 minutes per day will be promoted for all students in kindergarten through grade 3 whose reading levels are one grade level or more lower than their current grade level.<sup>5</sup>
2. In grades 9 through 12, subjects include: (a) language arts, (b) writing intensive course, (c) science, (d) mathematics,<sup>6</sup> (e) social studies including U.S. history, American government and, for students entering the 9th grade in the fall of 2016 and each year after it, one semester

---

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

<sup>1</sup> Districts must have a policy on physical education. ~~23 Ill.Admin.Code §1.420(p)~~. Policies on the remaining topics in this policy are optional. State or federal law controls this policy's content. 23 Ill.Admin.Code §1.420 recommends that activities, including student internships and observations of government in action, be a part of the instructional program where appropriate.

<sup>2</sup> 105 ILCS 5/2-3.156 requires ISBE to coordinate, adapt and develop middle and high school math curriculum models. There is no consistent definition for *middle school* or *high school* in either State or federal law. Districts are not required to use ISBE's models and may develop their own mathematics curricula.

The purpose of the math curriculum models will be to aid school districts and teachers in implementing the *Common Core Standards*. The ISBE has adopted new math and English language arts (ELA) standards for K-12 education referred to as the *New Ill. State Learning Standards Incorporating the Common Core*. The goal of incorporating the *Common Core Standards* into the *State Goals for Learning* is to better prepare Ill. students for success in college and the workforce in a competitive global economy. See <https://www.isbe.net/Documents/ccs-faq-0813.pdf>. [isbe.state.il.us/%5C/common-core/pdf/ccs-faq.pdf](https://www.isbe.net/Documents/ccs-faq-0813.pdf).

The terms *Common Core Standards* and the *New Ill. State Learning Standards Incorporating the Common Core* are synonymous. Referencing the *Ill. Learning Standards* includes them both. That is because they are incorporated by reference into ISBE's rules and *State Goals for Learning*. A district that wants to include the term *Common Core Standards* in its policy may do so; however, districts should understand that referring to the *Common Core Standards* only will cover only math and ELA learning standards and goals and not any other subject areas that the *Ill. Learning Standards* cover. The best practice is to continue using *Ill. Learning Standards*, which includes the *Common Core Standards*.

<sup>3</sup> 23 Ill.Admin.Code §1.430.

<sup>4</sup> 105 ILCS 5/27-13.2. House Resolution 824 (2014) urges all Illinois schools to educate youth about the dangers of using heroin and the rising numbers of accidental deaths from heroin overdoses through comprehensive drug education programs, including the *Drug Abuse Resistance Education* (DARE) program. No guidance on age appropriate instruction for heroin abuse is provided in the resolution.

<sup>5</sup> 105 ILCS 5/10-20.53.

<sup>6</sup> 105 ILCS 5/2-3.156. See f/n 2.

105 ILCS 5/27-22, ~~amended by P.A. 98-885~~, allows the substitution of an advanced placement computer science course for a year of mathematics. For specific requirements, see 6:300-E2, *State Law Graduation Requirements*, and 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-entering Students*.

of civics,<sup>7</sup> (f) foreign language, (g) music, (h) art, (i) driver and safety education, and (j) vocational education.<sup>8</sup>

Students otherwise eligible to take a driver education course must receive a passing grade in at least eight courses during the previous two semesters before enrolling in the course. The Superintendent or designee may waive this requirement if he or she believes a waiver to be in the student's best interest.<sup>9</sup> The course shall include: (a) classroom instruction on distracted driving as a major traffic safety issue<sup>10</sup>, and (b) instruction concerning law enforcement procedures for traffic stops, including a demonstration of the proper actions to be taken during a traffic stop and appropriate interactions with law enforcement.<sup>11</sup> Automobile safety instruction covering traffic regulations and highway safety must include instruction on the consequences of alcohol consumption and the operation of a motor vehicle.<sup>12</sup> The eligibility requirements contained in State law for the receipt of a certificate of completion from the Secretary of State shall be provided to students in writing at the time of their registration.<sup>13</sup>

---

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

<sup>7</sup> 105 ILCS 5/27-22, amended by P.A. 99-434 and P.A. 99-486: ~~(1) delayed the effective date of P.A. 99-434 until 7-1-2016, and (2) made the civics course requirement effective only for students entering the 9th grade.~~ The statute specifically states that school districts may utilize private funding available for offering civics education.

<sup>8</sup> 23 Ill.Admin.Code §1.440, 105 ILCS 5/27-22. The General Assembly encouraged school boards to implement American ~~sign~~ Sign language ~~Language~~ courses into the school foreign language curriculum. ~~(105 ILCS 5/10-20.46).~~ Senate Joint Resolution 68, 96th General Assembly, encourages school districts to explore the introduction of Arabic as a foreign language in their curriculums.

The ISBE rule on driver education personnel is found at 23 Ill.Admin.Code §252.40. School districts may contract with a commercial driver training school (CDTS) for driver education. ~~by obtaining a waiver or modification of the administrative rules and regulations promulgated by the ISBE or a modification of School Code mandates (105 ILCS 5/2-3.25g) 105 ILCS 5/27-24.2, amended by P.A. 100-465. See 2:20 E, Waiver and Modification Request Resource Guide.~~ To qualify to contract with a school district, a CDTS must (a) hold a valid license issued by the Ill. Sec. of State, and (b) provide instructors who hold a valid Ill. teaching certificate or license. ~~(Id.)~~ A district contracting with a CDTS must provide a list to ISBE of the CDTS instructors. ~~(Id.)~~ The list must include the name, personal ISBE identification number, birth date and driver's license number of each instructor who will teach driver education. ~~(Id.)~~ Although a formal waiver for outsourcing of driver's education is no longer required, districts must consider their applicable collective bargaining agreement(s), board policy, and the reduction in force (RIF) provisions of the School Code as they relate to outsourcing of instructional staff. Consult the board attorney for guidance.

<sup>9</sup> 105 ILCS 5/27-24.2, amended by P.A. 100-465.

<sup>10</sup> Id.

<sup>11</sup> Id., amended by P.A. 99-720, ~~eff. 1-1-17. Required beginning with the 2017-2018 school year.~~

<sup>12</sup> 105 ILCS 5/27-17.

<sup>13</sup> The Ill. Vehicle Code, 625 ILCS 5/6-408.5, ~~amended by P.A. 98-718,~~ contains these requirements; they are paraphrased below and may be added to the policy or otherwise disseminated.

Before a certificate of completion will be requested from the Secretary of State, a student must receive a passing grade in at least eight courses during the two semesters last ending before requesting the certificate. A certificate of completion will not be requested for any person less than 18 years of age who has dropped out of school unless the individual provides:

1. Written verification of his or her enrollment in a high school equivalency or alternative education program or a high school equivalency certificate (formerly GED certificate);
2. Written verification that before dropping out, the individual had received passing grades in at least ~~eight~~ eight courses during the two previous semesters last ending before requesting a certificate;
3. Written consent from the individual's parent/guardian and the Regional Superintendent; or
4. Written waiver from the Superintendent of the School District in which the individual resides or resided at the time he or she dropped out of school, or from the chief school administrator with respect to a dropout who attended a non-public high school. A waiver may be given if the Superintendent or chief administrator deems it to be in the individual's best interests.

3. In grades 7 through 12, as well as in interscholastic athletic programs, steroid abuse prevention must be taught.<sup>14</sup>
4. In kindergarten through grade 12, provided it can be funded by private grants or the federal government, violence prevention and conflict resolution must be stressed, including: (a) causes of conflict, (b) consequences of violent behavior, (c) non-violent resolution, and (d) relationships between drugs, alcohol, and violence.<sup>15</sup>
5. In grades kindergarten through 12, age-appropriate Internet safety must be taught, the scope of which shall be determined by the Superintendent or designee. The curriculum must incorporate policy 6:235, *Access to Electronic Networks* and, at a minimum, include: (a) education about appropriate online behavior, (b) interacting with other individuals on social networking websites and in chat rooms, and (c) cyberbullying awareness and response.<sup>16</sup>
6. In all grades, character education must be taught including respect, responsibility, fairness, caring, trustworthiness, and citizenship in order to raise students' honesty, kindness, justice, discipline, respect for others, and moral courage.<sup>17</sup>
7. In all schools, citizenship values must be taught, including: (a) patriotism, (b) democratic principles of freedom, justice, and equality, (c) proper use and display of the American flag, (d) the Pledge of Allegiance, and (e) the voting process.<sup>18</sup>

---

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

<sup>14</sup> 105 ILCS 5/27-23.3.

<sup>15</sup> 105 ILCS 5/27-23.4.

<sup>16</sup> 47 C.F.R. § 54.520(c)(1)(i) and 105 ILCS 5/27-13.3 control this section. "Grades kindergarten through 12" is used because federal law requires school districts that receive E-rate funding to certify that they have an Internet safety education policy for all minors. ~~(47 C.F.R. §54.520(c)(1)(i)).~~ This federal law defines *minors* as any individual who has not attained the age of 17 years. ~~(47 C.F.R. §54.520(a)(4)).~~

105 ILCS 5/27-13.3 requires a unit on Internet safety for students in grades 3 or above. It recommends seven topics for the unit on Internet safety and required ISBE to "make available resource materials for educating children regarding child online safety." It also invites schools to "adopt an age-appropriate curriculum for Internet safety instruction of students in grades kindergarten through 12."

For boards that do not receive E-rate funds and do not want to exceed the requirements of the School Code, replace this section with the following sentence: "In grades 3 or above, the curriculum contains a unit on Internet safety, the scope of which shall be determined by the Superintendent or designee."

<sup>17</sup> 105 ILCS 5/27-12.

Because of the negative outcomes associated with bullying in schools, the Ill. General Assembly has also found "that [school districts] should educate students, parents, and school district personnel about what behaviors constitute prohibited bullying." ~~(105 ILCS 5/27-23.7(a), amended by P.A. 98-669).~~ A board may want to add the following option:

Instruction in all grades should include educating students about behaviors that violate Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

The Ill. General Assembly invited boards to "make suitable provisions for instruction in gang resistance education and training in all grades and include such instruction in the courses of study regularly taught in those grades." See 105 ILCS 5/27-23.10(c). A board that shares this concern may add the following option: "In addition, in all grades gang resistance education and training must be taught."

<sup>18</sup> 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. Requirements for displaying a U.S. flag at each school and in each classroom are found in 5 ILCS 465/3 and 465/3a.

Note that the Illinois statute does not require every student to recite the *Pledge* – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the *Pledge*, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the *Pledge*. West Virginia State Board of Education v. Barnett, 319 U.S. 624 (1943); Sherman v. Community Consolidated Sch. Dist. 21 of Wheeling Township, 980 F.2d 437 (7th Cir. 1992). Consider using permissive rather than mandatory language to introduce the recitation of the *Pledge*, such as, "You may now stand to recite the *Pledge*." Schools may, of course, require that non-participants maintain order and decorum appropriate to the school environment.

8. In all grades, physical education must be taught including a developmentally planned and sequential curriculum that fosters the development of movement skills, enhances health-related fitness, increases students' knowledge, offers direct opportunities to learn how to work cooperatively in a group setting, and encourages healthy habits and attitudes for a healthy lifestyle. Unless otherwise exempted, all students are required to engage ~~daily during the school day~~ in a physical education course with such frequency as determined by the Board after recommendation from the Superintendent,<sup>19</sup> but at a minimum of three days per five-day week. For exemptions and substitutions, see policies 6:310, *High School Credit for Non-District Experiences*; *Course Substitutions*; *Re-Entering Students* and 7:260, *Exemption from Physical Education*.<sup>20</sup>
9. In all schools, health education must be stressed, including: (a) proper nutrition, (b) physical fitness, (c) components necessary to develop a sound mind in a healthy body, (d) dangers and avoidance of abduction, and (e) age-appropriate sexual abuse and assault awareness and prevention education in all grades. The Superintendent shall implement a comprehensive health education program in accordance with State law.<sup>21</sup>

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

<sup>19</sup> The phrase "after recommendation by the Superintendent" is optional. If a superintendent does not bring this topic to the board for discussion, the board may not have a trigger to make the determination.

<sup>20</sup> 105 ILCS 5/27-5 requires school boards to provide for students' physical education and allows the P.E. course offered in grades 5 through 10 to include the health education courses required by State law. See also 23 Ill.Admin.Code §1.425, added at 40 Ill. Reg. 2990.

105 ILCS 5/27-6, amended by P.A. 100-465, describes when students may be excused from ~~daily~~ P.E. See also 23 Ill.Admin.Code §1.425(e).

105 ILCS 5/27-6, amended by P.A. 100-465, contains an exception to the ~~daily~~ minimum of three days per five-day week P.E. requirement for schools engaged in block scheduling; if this is applicable, substitute this sentence for the ~~second-to-last~~ sentence in this paragraph:

Unless otherwise exempted, all students are required to engage ~~daily~~ with such frequency as determined by the Board, but at a minimum of three days per five-day week, during the school day, except on block scheduled days ~~for those schools in block scheduling~~, in a physical education course.

105 ILCS 5/27-6.5 describes physical fitness assessments required, beginning with the 2016-17 school year and every school year thereafter, for grades 3-12 in an effort to meet State Goal 20 of the Illinois Learning Standards for Physical Development and Health ~~(at: [www.isbe.net/Pages/PE-Health-Learning-Standards.aspx](http://www.isbe.net/Pages/PE-Health-Learning-Standards.aspx))~~. See also 23 Ill.Admin.Code §1.425 (g) and (h); ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers (Rev. ~~11/7/16~~5/22/17)* at: [www.isbe.net/Documents/fitness-asmt-faq.pdf](http://www.isbe.net/Documents/fitness-asmt-faq.pdf).

105 ILCS 5/27-7 describes the goals and requirements for P.E. courses; these are re-stated in this sample policy.

<sup>21</sup> 105 ILCS 110/3 and 23 Ill.Admin.Code §1.420(n). Each school system shall provide a program in compliance with the Critical Health Problems and Comprehensive Health Education Act. More detailed health education program content is described in administrative procedure 6:60-AP, *Comprehensive Health Education Program*. It includes the requirements for the development of a family life and sex education program (105 ILCS 5/27-9.1 and 110/3), among other health education topics including *teen dating violence* (105 ILCS 110/3.1, see 7:185, *Teen Dating Violence Prohibited* for the required "teen dating violence policy") and cardiopulmonary resuscitation and automated external defibrillator use (105 ILCS 110/3, amended by P.A. 98-632).

Citations for letters (a) - (e) in this paragraph follow:

- (a) 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7 (proper nutrition) and see also policy 6:50, *School Wellness*.
- (b) Id. (physical fitness) and see also policy 6:50, *School Wellness*.
- (c) Id. (sound mind and healthy body).
- (d) 105 ILCS 5/27-13.2 (dangers and avoidance of abduction). The State Police and ISBE must develop instruction on child abduction prevention. ~~(20 ILCS 2605/2605-480)~~.

10. In all schools, career/vocational education must be taught, including: (a) the importance of work, (b) the development of basic skills to enter the world of work and/or continue formal education, (c) good work habits and values, (d) the relationship between learning and work, and (e) if possible, a student work program that provides the student with work experience as an extension of the regular classroom. A career awareness and exploration program must be available at all grade levels.<sup>22</sup>
11. In grades 9 through 12, consumer education must be taught, including: (a) financial literacy, including consumer debt and installment purchasing (including credit scoring, managing credit debt, and completing a loan application); budgeting; savings and investing; banking (including balancing a checkbook, opening a deposit account, and the use of interest rates); understanding simple contracts; State and federal income taxes; personal insurance policies; the comparison of prices; higher education student loans; identity-theft security; and homeownership (including the basic process of obtaining a mortgage and the concepts of fixed and adjustable rate mortgages, subprime loans, and predatory lending); and (b) the roles of consumers interacting with agriculture, business, labor unions and government in formulating and achieving the goals of the mixed free enterprise system.<sup>23</sup>
12. In all schools, conservation of natural resources must be taught, including: (a) home ecology, (b) endangered species, (c) threats to the environment, and (d) the importance of the environment to life as we know it.<sup>24</sup>
13. In all schools, United States history must be taught, including: (a) the principles of representative government, (b) the Constitutions of the U.S. and Illinois, (c) the role of the U.S. in world affairs, (d) the role of labor unions, and (e) the role and contributions of ethnic groups, including but not limited to, the African Americans, Albanians, Asian Americans, Bohemians, Czechs, French, Germans, Hispanics (including the events related to the forceful removal and illegal deportation of Mexican-American U.S. citizens during the Great Depression), Hungarians, Irish, Italians, Lithuanians, Polish, Russians, Scots, and Slovaks in the history of this country and State.<sup>25</sup>

In addition, all schools shall hold an educational program on the United States Constitution on Constitution Day, each September 17, commemorating the September 17, 1787 signing of the Constitution. However, when September 17 falls on a Saturday, Sunday, or holiday, Constitution Day shall be held during the preceding or following week.<sup>26</sup>

---

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

- (e) 105 ILCS 110/3 and 105 ILCS 5/10-23.13 a/k/a *Erin's Law* (child sexual abuse prevention). *Erin's Law* requires a policy addressing child sexual abuse prevention. A sentence in 6:60-AP, *Comprehensive Health Education Program* restates the basic recommendations for a child sexual abuse prevention program from page 16 of the *Erin's Law* Taskforce Final Report (Report) to Governor Quinn at: [www.isbe.net/Documents/erins-law-final0512.pdf](http://www.isbe.net/Documents/erins-law-final0512.pdf). The professional educator training component of *Erin's Law* is addressed in policy 5:100, *Staff Development Program*. The Report also encourages parental involvement because parents play a key role in protecting children from child sexual abuse.

<sup>22</sup> 23 Ill.Admin.Code §1.420(i). See 105 ILCS 435/ for the Vocational Education Act.

<sup>23</sup> 105 ILCS 5/27-12.1, amended by P.A. 99-284; 23 Ill.Admin.Code §1.420(k). P.A. 99-284 added these new subjects to the required consumer education course: consumer debt, higher education student loans, and identity-theft security.

<sup>24</sup> 105 ILCS 5/27-13.1; 23 Ill.Admin.Code §1.420(l).

<sup>25</sup> 105 ILCS 5/27-21; 23 Ill.Admin.Code §1.420(r).

<sup>26</sup> Section 111 of Division J of Pub. L. 108-447, the Consolidated Appropriations Act, 2005, 12-8-04; 118 Stat. 2809, 3344-45 (Section 111). Section 111(b) states: “[e]ach educational institution that receives Federal funds for a fiscal year shall hold an educational program on the U.S. Constitution on September 17 of such year . . . .”

14. In grade 7 and all high school courses concerning U.S. history or a combination of U.S. history and American government, students must view a Congressional Medal of Honor film made by the Congressional Medal of Honor Foundation, provided there is no cost for the film.<sup>27</sup>
15. In all schools, the curriculum includes a unit of instruction on the Holocaust and crimes of genocide, including Nazi atrocities of 1933-1945, Armenian Genocide, the Famine-Genocide in Ukraine, and more recent atrocities in Cambodia, Bosnia, Rwanda, and Sudan.<sup>28</sup>
16. In all schools, the curriculum includes a unit of instruction on the history, struggles, and contributions of women.<sup>29</sup>
17. In all schools, the curriculum includes a unit of instruction on Black History, including the history of the African slave trade, slavery in America, and the vestiges of slavery in this country, as well as the struggles and contributions of African-Americans <sup>30</sup>
18. In all schools offering a secondary agricultural education program, the curriculum includes courses as required by 105 ILCS 5/2-3.80.<sup>31</sup>
19. In all schools, instruction during courses as determined by the Superintendent or designee on disability history, awareness, and the disability rights movement.<sup>32</sup>

---

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

<sup>27</sup> 105 ILCS 5/27-3.5. The Congressional Medal of Honor film is available on ISBE's website for no cost at: [www.isbe.net/Pages/Medal-of-Honor.aspx](http://www.isbe.net/Pages/Medal-of-Honor.aspx).

<sup>28</sup> 105 ILCS 5/27-20.3 requires the curriculum to include a *unit of instruction* on this subject but does not specify the amount of time that constitutes a *unit of instruction*.

<sup>29</sup> 105 ILCS 5/27-20.5 requires the curriculum to include a *unit of instruction* on this subject but does not specify the amount of time that constitutes a *unit of instruction*. House Resolution 365 (2013) and Senate Resolution 1073 (2014) both urge all Illinois educators to share with students of an appropriate age the story of *comfort women* when discussing the history of Asia or World War II, or the issue of human trafficking.

<sup>30</sup> 105 ILCS 5/27-20.4 requires the curriculum to include a *unit of instruction* on this subject but does not specify the amount of time that constitutes a *unit of instruction*.

<sup>31</sup> 105 ILCS 5/2-3.80(e) or (f).

<sup>32</sup> 105 ILCS 5/27-23.8. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. The statute requires that the instruction be founded on the principle that all students, including students with disabilities, have the right to exercise self-determination. It urges districts to request individuals with disabilities to assist with the development and delivery of this instruction and allows instruction to be supplemented by knowledgeable guest speakers.

- LEGAL REF.: 5 ILCS 465/3 and 465/3a.  
20 ILCS 2605/2605-480.  
105 ILCS 5/2-3.80(e) and (f), 5/27-3, 5/27-3.5, 5/27-5, 5/27-6, 5/27-6.5, 5/27-7, 5/27-12, 5/27-12.1, 5/27-13.1, 5/27-13.2, 5/27-20.3, 5/27-20.4, 5/27-20.5, 5/27-21, 5/27-22, 5/27-23.3, 5/27-23.4, 5/27-23.7, 5/27-23.8, 5/27-23.10, 5/27-24.2, 435/, and 110/3.  
625 ILCS 5/6-408.5.  
23 Ill.Admin.Code §§1.420, 1.425, 1.430, and 1.440.  
Consolidated Appropriations Act of 2005, Pub. L. No. 108-447, Section 111 of Division J.  
Protecting Children in the 21st Century Act, Pub. L. No. 110-385, Title II, 122 stat. 4096 (2008).  
47 C.F.R. §54.520.
- CROSS REF.: 6:20 (School Year Calendar and Day), 6:40 (Curriculum Development), 6:70 (Teaching About Religions), 6:235 (Access to Electronic Networks), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:260 (Exemption from Physical Education)

## 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.<sup>2</sup> A *homeless child* is defined as provided in the McKinney-Vento Homeless Assistance Act and the Ill. Education for Homeless Children Act.<sup>3</sup> The Superintendent or designee shall act as or appoint a Liaison for Homeless Children to coordinate this policy's implementation.<sup>4</sup>

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.<sup>5</sup>

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

---

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

<sup>1</sup> State and federal law control this policy's content. This sample policy contains the basic requirements of the Ill. 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.

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

<sup>3</sup> Under the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11434a(2)),

*Homeless Children* (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; are abandoned in hospitals, or are awaiting foster care placement;
- 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:** ~~Effective 12-10-16~~, Section §11434a(2) ~~will~~ no longer include children "awaiting foster care placement" within the definition of *homeless children*.

Under the Ill. 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](http://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](http://www2.ed.gov/programs/homeless/legislation.html) for the U.S. Dept. of Education's information about federal requirements.

<sup>4</sup> 42 U.S.C. §11432(g)(l)(J)(ii).

<sup>5</sup> 105 ILCS 45/1-10.



certificates, school records and other documentation, and guardianship.<sup>6</sup> Transportation shall be provided in accordance with the McKinney-Vento Homeless Assistance Act and State law.<sup>7</sup> 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.<sup>8</sup> 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.<sup>9</sup> 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.<sup>10</sup>

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

CROSS REF.: 2:260 (Uniform Grievance Procedure), 4:110 (Transportation), 7:10 (Equal Educational Opportunities), 7:30 (Student Assignment), 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)

---

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

<sup>6</sup> 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, eff. 1-1-18, 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.

<sup>7</sup> 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) and 105 ILCS 45/1-17 (homeless assistance), amended by P.A. 100-332. 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). A district that provides such financial assistance 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 result in housing being inadequate. Id. at 1-17(a). See 6:140-AP, *Education of Homeless Children*, f/n 1, for a discussion of issues that districts should consider in developing such plans.

<sup>8</sup> Required by 42 U.S.C. §11432(g)(7)(C).

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

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

<sup>10</sup> 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.

## Instruction

### Home and Hospital Instruction 1

A student who is absent from school, or whose physician, physician assistant, or advanced practice registered nurse anticipates that the student will be absent from school, because of a medical condition may be eligible for instruction in the student's home or hospital.<sup>2</sup> Eligibility shall be determined by State law and the Illinois State Board of Education rules governing (1) the continuum of placement options for students who have been identified for special education services or (2) the home and hospital instruction provisions for students who have not been identified for special education services.<sup>3</sup> Appropriate educational services from qualified staff will begin no later than 5 five school days after receiving a physician's written statement.<sup>4</sup> Instructional or related services for a

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

<sup>1</sup> State or federal law controls this policy's content. The following State laws and ISBE rules govern homebound and hospital instruction: 105 ILCS 5/14-13.01 (reimbursement for home and hospital instruction along with factors to qualify for it); 105 ILCS 5/18-4.5 (~~governs~~ reimbursement for home and hospital instruction); 105 ILCS 5/18-8.05, amended by P.A. 100-465 (for purposes of apportioning general state aid through the 2016-2017 school year, an instructional session of one clock hour may be counted as ½ day of attendance, however, a student must receive 4four or more instructional clock hours to count as a full day of attendance); 23 Ill.Admin.Code §226.300 (home/hospital service for a special education student); 23 Ill.Admin.Code §1.520; ISBE General State Aid Claim form.

See ISBE guidance, Home/Hospital Instruction and Reimbursement Questions and Answers available at: [www.isbe.net/Documents/home\\_hospital\\_qa.pdf](http://www.isbe.net/Documents/home_hospital_qa.pdf).

<sup>2</sup> 105 ILCS 5/14-13.01, amended by P.A. ~~97-123~~100-443, ~~re~~defines the standards for determining when a student is eligible to receive home or hospital instruction. A student ~~now~~ qualifies when a physician, physician assistant, or advanced practice nurse anticipates a student's absence due to a medical condition. The ~~Act~~ law ~~also defines~~ "ongoing intermittent basis" to mean a medical condition of such a nature and severity that it is anticipated that the student will be absent from school due to the medical condition for periods of at least 2two days at a time multiple times during the school year totaling at least 10 days or more of absences. 225 ILCS 65/20-10, amended by P.A. 100-513, revised the Nurse Practice Act to add registered to the definition of advanced practice registered nurse; accordingly, this policy reflects that change in terminology, even though Section 5/14-13.01 similarly has not been amended.

<sup>3</sup> 105 ILCS 5/14-13.01(a), amended by P.A. 100-443, ~~requires that all students provide a written statement from a physician, physician assistant, or advanced practice registered nurse stating the existence of a medical condition, the impact on the child's ability to participate in education, and the anticipated duration or nature of the child's absence from school; However, ISBE rules at 23 Ill.Admin.Code §226.300 (students qualifying for special education services), and 23 Ill.Admin.Code §1.520 (students not qualifying for special education services) have not yet been amended to reflect that this written statement may come from a physician assistant or an advanced practice registered nurse; they still state that such a written statement must come from a physician. ISBE's Medical Certification for Home/Hospital Instruction form, form 34-58, reflects that the written statement may come from a "physician licensed to practice medicine in all its branches, APRN, or PA." Available at: [www.isbe.net/Documents/34-58-home-hospital-inst.pdf](http://www.isbe.net/Documents/34-58-home-hospital-inst.pdf). ~~require, at a minimum, all students to provide a written statement from a physician licensed to practice medicine in all of its branches stating the existence of a medical condition, the impact on the student's ability to participate in education, and the anticipated duration or nature of the child's absence from school.~~~~

A student with health needs may be protected by the Individuals with Disabilities Education Act (20 U.S.C. §1401(3) or Section 504 of the Rehabilitation Act (29 U.S.C. §794(a)).

<sup>4</sup> There is no ~~longer a~~ requirement that a student be absent from school for a minimum number of days before he or she qualifies for home or hospital instruction. ~~(105 ILCS 5/14-13.01(a), amended by P.A. 97-123).~~ The ~~Act~~ now statute, amended by P.A. 100-443, allows schools to begin home or hospital instruction upon receipt of a physician's written statement from a physician, physician assistant, or advanced practice registered nurse but requires it to begin no later than 5five school days after receipt of the physician's written statement.

Both 23 Ill.Admin.Code §§226.300(g) and 1.520(f) require home or hospital instructors to meet the requirements listed in 23 Ill.Admin.Code §1.610, i.e., proper certification/licensure as required by Section 21B-15 of the amendments to the School Code (105 ILCS 5/21B-15), in P.A. 97-607 and 23 Ill.Admin.Code §25.464.

student receiving special education services will be determined by the student's individualized education program.

A student who is unable to attend school because of pregnancy will be provided home instruction, correspondence courses, or other courses of instruction (1) before the birth of the child when the student's physician, physician assistant, or advanced practice registered nurse indicates, in writing, that she is medically unable to attend regular classroom instruction, and (2) for up to ~~3~~three months after the child's birth or a miscarriage. <sup>5</sup>

Periodic conferences will be held between appropriate school personnel, parent(s)/guardian(s), and hospital staff to coordinate course work and facilitate a student's return to school.

LEGAL REF.: 105 ILCS 5/10-22.6a, 5/14-13.01, and 5/18-4.5, and 5/18-8.05.  
23 Ill.Admin.Code §§1.520, 1.610, and 226.300.

CROSS REF.: 6:120 (Education of Children with Disabilities), 7:10 (Equal Educational Opportunity), 7:280 (Communicable and Chronic Infectious Disease)

---

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

<sup>5</sup> 105 ILCS 5/10-22.6a, amended by P.A. 100-443. Number (2) does not require a ~~physician's~~ written statement from a physician, physician assistant, or advanced practice registered nurse.

## Instruction

### Grading and Promotion 1

The Superintendent or designee shall establish a system of grading and reporting academic achievement to students and their parents/guardians.<sup>2</sup> The system shall also determine when promotion and graduation requirements are met. The decision to promote a student to the next grade level shall be based on successful completion of the curriculum, attendance, and performance on the Illinois *Partnership for Assessment of Readiness for College and Careers* (PARCC) and/or other assessments.<sup>3</sup> A student shall not be promoted based upon age or any other social reason not related to academic performance.<sup>4</sup> The administration shall determine remedial assistance for a student who is not promoted.<sup>5</sup>

Every teacher shall maintain an evaluation record for each student in the teacher's classroom. A District administrator cannot change the final grade assigned by the teacher without notifying the teacher.<sup>6</sup> Reasons for changing a student's final grade include:

- A miscalculation of test scores,
- A technical error in assigning a particular grade or score,
- The teacher agrees to allow the student to do extra work that may impact the grade,
- An inappropriate grading system used to determine the grade, or
- An inappropriate grade based on an appropriate grading system.

Should a grade change be made, the administrator making the change must sign the changed record.

---

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

<sup>1</sup> State law requires districts to have a school board policy containing the reasons for which a grade may be changed and prohibiting social promotion. ~~(105 ILCS 5/10-20.9a)~~. State law controls this policy's content.

If a district uses weighted grades for classes by degree of difficulty, it must be reflected in the affected students' class ranking and permanent records. ~~(105 ILCS 5/27-27)~~.

<sup>2</sup> Absent a court order to the contrary, upon the request of either parent of a student whose parents are divorced, copies of report cards, along with other notices and records, must be furnished to both parents by the district. ~~(105 ILCS 5/10-21.8)~~.

<sup>3</sup> 105 ILCS 5/10-20.9a. Each board may determine its own promotion criteria and augment the statute's criteria.

Until July 1, 2014, 105 ILCS 5/2-3.64 contained the State assessment program; it was repealed by P.A. 98-972.

105 ILCS 5/2-3.64a-5(b), ~~added by P.A. 98-972~~, requires ISBE to "establish the academic standards that are to be applicable to students who are subject to State assessments." It contains the schedule for assessing students by calendar year and grade. ISBE selected the *Partnership for Assessment of Readiness for College and Careers* (PARCC) as the State assessment and accountability measure. In House Joint Resolution 54 (2015), members of the Ill. House and Senate encouraged school districts to not use results of the PARCC test for the 2014-2015 ~~school year~~ through the 2017-2018 school years "as a determining factor for making decisions about a student's educational opportunities, the evaluation of educators, and the allocation of resources based on educational achievement on this assessment."

~~105 ILCS 5/2-3.64a-5(c), amended by P.A. 100-7, requires that the assessment administered by ISBE for the purpose of student application to or admissions consideration by institutions of higher education be administered on a school day during regular student attendance hours.~~

~~105 ILCS 5/2-3.64a-5(e), amended by P.A. 100-222, no longer requires that the scores attained by a student on an assessment that includes a college and career readiness determination be entered on the student's transcript; however, the scores must still be placed in the student's permanent record. See also 23 Ill.Admin.Code §375.10.~~

~~4 105 ILCS 5/10-20.9a(b).~~

~~5 105 ILCS 5/10-20.9a-Id.~~

<sup>6</sup> The specific reasons and procedure for changing a grade are at the local board's discretion; however, State law provides that no grade may be changed without notification to the teacher concerning the nature and reason for the change. ~~(105 ILCS 5/10-20.9a(a)).~~ The person making the change must assume all responsibility and must initial the change. ~~(Id.)~~.

LEGAL REF.: 105 ILCS 5/2-3.64a-5, 5/10-20.9a, 5/10-21.8, and 5/27-27.

CROSS REF.: 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 6:300 (Graduation Requirements), 6:340 (Student Testing and Assessment Program), 7:50 (School Admissions and Student Transfers To and From Non-District Schools)

## Instruction

### Graduation Requirements 1

To graduate from high school, unless otherwise exempted, each student is responsible for:

1. Completing all District graduation requirements that are in addition to the State requirements. 2
2. Completing all courses as provided in the School Code, 105 ILCS 5/27-22. 3
3. Completing all minimum requirements for graduation as specified by Illinois State Board of Education rule, 23 Ill.Admin.Code §1.440.
4. Passing an examination on patriotism and principles of representative government, proper use of the flag, methods of voting, and the Pledge of Allegiance. 4
5. Participating in State assessments that are required for graduation by the School Code, 105 ILCS 5/2-3.64a-5(c). 5

The Superintendent or designee is responsible for: 6

*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. Graduation requirements are often published in student handbooks. 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](http://www.ilprincipals.org/resources/model-student-handbook).

In accordance with 105 ILCS 5/2-3.159 and 23 Ill.Admin.Code §1.442, a school district may establish a program to recognize high school graduates who attained a high level of proficiency in one or more languages in addition to English by designating on a student's diploma and transcript a State Seal of Biliteracy. See policy 6:320, *High School Credit for Proficiency*.

**2** Optional. ~~23~~ Ill.Admin.Code §1.440(f). A school board should ensure that all district graduation requirements that are in addition to the State requirements are aligned with the district educational objectives. See policy 6:10, *Educational Philosophy and Objectives*.

**3** The escalating graduation requirements in 105 ILCS 5/27-22 had ~~ve~~ timed-out and were deleted by P.A. 100-443, such that only the final list of required courses in Section 27-22(e) is applicable. 105 ILCS 5/27-22(e)(3), ~~amended by P.A. 98-885~~, allows the substitution of an advanced placement computer science course for a year of mathematics. 105 ILCS 5/27-22(e)(5), amended by P.A. 99-434 (~~eff. 1-1-2016~~) and P.A. 99-485 (~~eff. 11-20-2015~~) (~~delayed the effective date of P.A. 99-434 until 7-1-2016~~) requires students entering the 9th grade in the 2016-~~2017~~ school year and each year thereafter to complete one semester of civics. For specific requirements, see 6:300-E2, *State Law Graduation Requirements*, and 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-entering Students*.

**4** Required by 105 ILCS 5/27-3.

**5** ~~The requirement to take the Prairie State Achievement Examination (PSAE) has ended (105 ILCS 5/2-3.64, repealed by P.A. 98-972). A new section (105 ILCS 5/2-3.64a-5, added by P.A. 98-972)~~ states that "[s]tudents who are not assessed for college and career ready determinations may not receive a regular high school diploma unless the student is exempted." ISBE selected the *Partnership for Assessment of Readiness for College and Careers* (PARCC) assessments at: [www.isbe.net/Pages/PARCC-Place.aspx](http://www.isbe.net/Pages/PARCC-Place.aspx). Some students, particularly out-of-state student-transferees, may have problems fulfilling the diploma requirement depending on when the applicable PARCC is administered. Contact the board attorney for assistance. In House Joint Resolution 54 (2015), members of the Ill. House and Senate encouraged school districts to not use results of the PARCC test for the 2014-2015 ~~school year~~ through the 2017-2018 school years "as a determining factor for making decisions about a student's educational opportunities, the evaluation of educators, and the allocation of resources based on educational achievement on this assessment."

105 ILCS 5/2-3.64a-5(c), amended by P.A. 100-7, requires that the assessment administered by ISBE for the purpose of student application to or admissions consideration by institutions of higher education be administered on a school day during regular student attendance hours.

105 ILCS 5/2-3.64a-5(e), amended by P.A. 100-222, no longer requires that the scores attained by a student on an assessment that includes a college and career readiness determination be entered on the student's transcript. The scores, however, must be placed in the student's permanent record. See also 23 Ill.Admin.Code §375.10.

1. Maintaining a description of all course offerings that comply with the above graduation requirements.
2. Notifying students and their parents/guardians of graduation requirements.
3. Developing the criteria for #4 above.
4. Complying with State law requirements for students who transfer during their senior year because their parent(s)/guardian(s) are on active military duty. This includes making reasonable adjustments to ensure graduation if possible, or efforts to ensure that the original (transferor) school district issues the student a diploma.
5. Taking all other actions needed or necessary to implement this policy.

#### Early Graduation <sup>7</sup>

The Superintendent or designee shall implement procedures for students to graduate early, provided they finish ~~7~~<sup>seven</sup> semesters of high school and meet all graduation requirements.

#### Certificate of Completion <sup>8</sup>

A student with a disability who has an Individualized Education Program prescribing special education, transition planning, transition services, or related services beyond the student's ~~4~~<sup>four</sup> years of high school, qualifies for a certificate of completion after the student has completed ~~4~~<sup>four</sup> years of high school. The student is encouraged to participate in the graduation ceremony of his or her high school graduation class. The Superintendent or designee shall provide timely written notice of this requirement to children with disabilities and their parents/guardians.

#### Veterans of World War II, the Korean Conflict, or the Vietnam Conflict <sup>9</sup>

Upon application, an honorably discharged veteran of World War II, the Korean Conflict, or the Vietnam Conflict will be awarded a diploma, provided that he or she (1) resided within an area currently within the District at the time he or she left high school, (2) left high school before graduating in order to serve in the U.S. Armed Forces, and (3) has not received a high school diploma.

---

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

<sup>6</sup> Items #1 and #2 are required by 23 Ill.Admin.Code §1.440(d) and (e), respectively. Item #3 must be addressed because the law leaves many implementation issues unanswered. A comprehensive Student Handbook can provide notice of the district's graduation requirements, conduct rules, and other important information. Item #4 includes discussion of the adjustments required by the Educational Opportunity for Military Children Act, 105 ILCS 70/35(d), ~~amended by P.A. 98-673.~~

<sup>7</sup> This is optional. State law and rules are silent regarding early graduation. As an alternative, a board may delete the phrase "~~finish 7 semesters of high school and.~~"

<sup>8</sup> Required by 105 ILCS 5/14-16.

<sup>9</sup> Optional. 105 ILCS 5/22-27 does not designate a time requirement for when the veteran "resided within an area currently within the district." Thus, a reasonable interpretation may be adopted locally. The sample policy designates "at the time he or she left high school" as the pertinent time for residence. See 6:300-E1, *Application for a Diploma for Veterans of WWII, the Korean Conflict, or the Vietnam Conflict.*

LEGAL REF.: 105 ILCS 5/2-3.64a-5, 5/22-27, 5/27-3, 5/27-22, ~~and 5/27-22.10, and 70/~~.  
105 ILCS 70/, Educational Opportunity for Military Children Act.  
23 Ill.Admin.Code §1.440.

CROSS REF.: 6:30 (Organization of Instruction), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students), 6:315 (High School Credit for Students in Grade 7 or 8), 6:320 (High School Credit for Proficiency), 7:50 (School Admissions and Student Transfers To and From Non-District Schools)



## Instruction

### High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students <sup>1</sup>

#### Credit for Non-District Experiences <sup>2</sup>

A student may receive high school credit for successfully completing any of the listed courses or experiences even when it is not offered in or sponsored by the District:

1. Distance learning course, including a correspondence, virtual, or online course
2. Courses in an accredited foreign exchange program
3. Summer school or community college courses <sup>3</sup>
4. College courses offering dual credit courses at both the college and high school level <sup>4</sup>
5. Foreign language courses taken in an ethnic school program approved by the Illinois State Board of Education <sup>5</sup>

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

<sup>1</sup> State law requires that several of the programs in this policy be covered in policy. State law controls this policy's content. Note that 23 Ill.Admin.Code §1.420(b) requires "[e]very school district [to] have an organized plan for recording pupil progress and/or awarding credit, including credit for courses completed by correspondence, on\_line, or from other external sources, that can be disseminated to other schools within the State." Section 1.460 requires "[e]ach local board of education with a high school [to] adopt a policy which defines the board's position with reference to the awarding of high school credit on the basis of local examinations to pupils who have achieved the necessary proficiencies through independent study, either with or without private tutoring, or for work taken in or from another institution." 23 Ill.Admin.Code §1.460.

Sample policy 6:185, *Remote Educational Program*, provides for educational programs **delivered by the district** in a location outside of the school.

Sample policy 6:315, *High School Credit for Students in Grade 7 or 8*, allows students enrolled in grade 7 or 8 to enroll in a course required for high school graduation. ~~(105 ILCS 5/27-22.10(a), amended by P.A. 99-189; and 23 Ill.Admin.Code §1.440(c)(3)).~~

<sup>2</sup> Each board may choose for which, if any, of the listed non-district experiences the district will grant high school credit. If a district does not grant credit for any of the listed activities, substitute the following alternative for all text in the entire section: "The District does not grant graduation credit for learning experiences that an enrolled student does not complete through the District."

<sup>3</sup> 105 ILCS 5/27-22.1 provides that no fewer than 60 hours of classroom instruction in summer school is required for one semester of high school course credit. Districts may accept courses completed in a community college toward graduation. ~~(23 Ill.Admin.Code §1.440(f)).~~ Superintendents, pursuant to 105 ILCS 5/10-21.4, must annually report to ISBE the number of students enrolled in accredited courses at any community college along with the name(s) and number(s) of the course(s) each student is taking.

<sup>4</sup> The Dual Credit Quality Act ~~(110 ILCS 27/)~~ defines dual credit as a college course taken by a high school student for credit at both the college and high school level. 110 ILCS 27/5. An instructor who teaches a dual credit course does not need the certification required by Article 21 of the School Code. 110 ILCS 27/20(1). Dual credit programs will require cooperation between the school district and the institution providing the dual credit courses (see the Higher Education Student Assistance Act at 110 ILCS 947/10 for a definition of *institution*). A high school evaluation of a dual credit program must also incorporate the analysis of data from ISBE's statewide longitudinal data system (see the P-20 Longitudinal Education Data System Act, 105 ILCS 13/, for more information). 105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-133, eff. 1-1-18, requires school boards to require the district's high schools, if any, to inform all 11th and 12th grade students of dual enrollment and dual credit opportunities at public community colleges for qualified students.

<sup>5</sup> 105 ILCS 5/2-3.44 and 5/10-22.43a. An ethnic school is a part-time, private school that teaches the foreign language of a particular ethnic group as well as the culture, geography, history, and other aspects of a particular ethnic group. 105 ILCS 5/2-3.44; 23 Ill.Admin.Code §1.465(b). For requirements, see 23 Ill.Admin.Code §1.465.

6. Work-related training at manufacturing facilities or agencies in a Youth Apprenticeship Vocational Education Program (Tech Prep) 6
7. Credit earned in a Vocational Academy 7

The student must seek approval from the Superintendent or designee to receive graduation credit for any non-District course or experience. The Superintendent or designee shall determine the amount of credit and whether a proficiency examination is required before the credit is awarded. As approval is not guaranteed, students should seek conditional approval of the experience before participating in a non-District course or experience. The student assumes responsibility for any fee, tuition, supply, or other expense. The student seeking credit is responsible for (1) providing documents or transcripts that demonstrate successful completion of the experience, and (2) taking a proficiency examination, if requested. The Superintendent or designee shall determine which, if any, non-District courses or experiences, will count toward a student's grade point average, class rank, and eligibility for athletic and extracurricular activities. This section does not govern the transfer of credits for students transferring into the District.

#### Substitutions for Required Courses

**Vocational or technical education.**<sup>8</sup> A student in grades 9-12 may satisfy one or more high school courses (including physical education) or graduation requirements by successfully completing related vocational or technical education courses if:

1. The Building Principal approves the substitution and the vocational or technical education course is completely described in curriculum material along with its relationship to the required course; and
2. The student's parent/guardian requests and approves the substitution in writing on forms provided by the District.

**Advanced placement computer science.**<sup>9</sup> The advanced placement computer science course is equivalent to a high school mathematics course. A student in grades 9-12 may substitute the advanced placement computer science course for one year of mathematics, in accordance with Section 27-22 of the School Code. The transcript of a student who completes the advanced placement computer science course will state that it qualifies as a mathematics-based, quantitative course.

---

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

<sup>6</sup> The State Superintendent and Board of Higher Education were encouraged by 105 ILCS 5/2-3.115 to establish a program of academic credit for youth apprenticeship vocational education programs, which could be instituted by school districts. See also 23 Ill.Admin.Code §1.445.

<sup>7</sup> Vocational Academies Act, 105 ILCS 433/. The Act's purpose is to "integrate workplace competencies and career and technical education with core academic subjects." School districts are permitted to partner with community colleges, local employers, and community-based organizations to establish a vocational academy that functions as a two-year school within a school for grades 10 through 12. Grant funds may be available from ISBE when the vocational academy meets statutory requirements.

<sup>8</sup> Allowing this substitution is optional, but, if offered, must be included in board policy. ~~(105 ILCS 5/27-22.05).~~ The related requirement is met if the course contains at least 50% of the content of the required course. Id., 23 Ill.Admin.Code §1.445 requires that the vocational or technical education course be completely described in the policy along with its relationship to the required course. The sample policy satisfies these requirements by referring to the courses as described in curricular material.

ISBE requires that the parent/guardian of a student under the age of 18 request the course substitution "on forms that the school district makes available" and that the request must be maintained in the student's temporary record. ~~23 Ill.Admin.Code §1.445.~~ See 6:310-E, *Class Substitution Request*.

<sup>9</sup> Optional, but allowed by 105 ILCS 5/27-22(f-5).

**Substitutions for physical education.** A student in grades 9-12, unless otherwise stated, may submit a written request to the Building Principal to be excused from physical education courses for the reasons stated below.<sup>10</sup> The Superintendent or designee shall maintain records showing that the criteria set forth in this policy were applied to the student's individual circumstances, as appropriate.<sup>11</sup>

1. ~~Enrollment~~Ongoing participation in a marching band program for credit;
2. Enrollment in Reserve Officer's Training Corps (ROTC) program sponsored by the District;
3. Ongoing participation in an interscholastic or extracurricular athletic program ~~(student must be in the 11th or 12th grade);~~
4. Enrollment in academic classes that are required for admission to an institution of higher learning (student must be in the 11th or 12th grade); or
5. Enrollment in academic classes that are required for graduation from high school, provided that failure to take such classes will result in the student being unable to graduate (student must be in the 11th or 12th grade).

A student who is eligible for special education may be excused from physical education courses pursuant to 7:260, *Exemption from Physical Education*.

**Volunteer service credit.**<sup>12</sup> A student participating in the District's Volunteer Service Credit Program, if any, may earn credit toward graduation for the performance of community service. The amount of credit given for program participation shall not exceed that given for completion of one semester of language arts, math, science, or social studies.

---

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

<sup>10</sup> Optional, but allowed by 105 ILCS 5/27-6(b), amended by P.A. 100-465; 23 Ill.Admin.Code §1.425(e) and (f). A board that wants to allow any of these P.E. exemptions must include the ones it selects in a policy that excuses students on an individual basis.

This policy excuses students from P.E. only during the marching band season because the statute allows the exemption "for ongoing participation in such marching band program." Thus, if the marching band season is over, the student's *ongoing participation* has ceased and the student no longer qualifies for the P.E. exemption. Common sense, however, would allow the exemption to continue until the end of the current grading period.

Prior to P.A. 100-465, the statute only allowed students in grades 11 and 12 to be excused from P.E. "for ongoing participation in an interscholastic athletic program." 105 ILCS 5/27-6(b)(1). 105 ILCS 5/27-6(b), amended by P.A. 100-465, now states "on a case-by-case basis, excuse pupils in grades 7 through 12 who participate in an interscholastic or extracurricular athletic program." It does not require such participation to be ongoing. Common sense, however, would allow the exemption to continue only until the end of the grading period during which the athletic program is active.

State law does not define interscholastic athletic program or extracurricular athletic program; however, 105 ILCS 5/22-80 defines interscholastic athletic activity as "any organized school-sponsored or school-sanctioned activity for students, generally outside of school instructional hours, under the direction of a coach, athletic director, or band leader, including, but not limited to, baseball, basketball, cheerleading, cross country track, fencing, field hockey, football, golf, gymnastics, ice hockey, lacrosse, marching band, rugby, soccer, skating, softball, swimming and diving, tennis, track (indoor and outdoor), ultimate Frisbee, volleyball, water polo, and wrestling."

For boards that want to explain the meaning of interscholastic or extracurricular athletic program, insert the following option at the end of #3:

(organized school-sponsored or school-sanctioned activities for students that are not part of the curriculum, not graded, not for credit, generally take place outside of school instructional hours, and under the direction of a coach, athletic director, or band leader)

<sup>11</sup> 23 Ill.Admin.Code §1.425(f).

<sup>12</sup> Optional. The credit given for one semester may not exceed that stated in this policy. ~~(105 ILCS 5/27-22.3).~~ The program may include participation in the organization of a high school or community blood drive or other blood donor recruitment campaign. Id. ISBE must provide assistance to districts opting to offer the program. ~~(105 ILCS 5/2-3.108).~~

### Re-Entering Students 13

Individuals younger than 21 years of age may re-enter high school to acquire a high school diploma or an equivalency certificate, subject to the limitations in Board policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*. Re-entering students may obtain credit through the successful completion of the following (not all of these may be available at any one time):

1. District courses
2. Non-District experiences described in this policy
3. Classes in a program established under Section 10-22.20 of the School Code, in accordance with the standards established by the Illinois Community College Board
4. Proficiency testing, correspondence courses, life experiences, and other nonformal educational endeavors
5. Military service, provided the individual making the request has a recommendation from the American Council on Education

The provisions in the section **Credit for Non-District Experiences**, above, apply to the receipt of credit for any non-District course.

LEGAL REF.: 105 ILCS 5/2-3.44, 5/2-3.108, 5/2-3.115, 5/2-3.142, 5/10-22.43a, 5/27-6, 5/27-22.3, and 5/27-22.05.  
23 Ill.Admin.Code §§1.425(e) and (f), 1.440(f), and 1.470(c).

CROSS REF.: 6:180 (Extended Instructional Programs), 6:300 (Graduation Requirements), 6:315 (High School Credit for Students in Grade 7 or 8), 6:320 (High School Credit for Proficiency), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:260 (Exemption from Physical Education)

---

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

<sup>13</sup> Required by 23 Ill.Admin.Code §1.470(a). While the sample policy does not provide for it, a school board may permit adults 21 years of age or older to re-enter high school\_ ~~23 Ill.Admin.Code §1.470(b)~~. Items #4 & #5 are optional, but must be included in a policy if credit will be granted for them. [105 ILCS 5/27-6, 27-22.05](#).

## Instruction

### Student Testing and Assessment Program 1

The District student assessment program provides information for determining individual student achievement and instructional needs; curriculum and instruction effectiveness; and school performance measured against District student learning objectives and statewide norms.

The Superintendent or designee shall manage the student assessment program that, at a minimum:

1. Administers the State assessment system, known as the *Partnership for Assessment of Readiness for College and Careers* (PARCC), to all students and/or any other appropriate assessment methods and instruments, including norm and criterion-referenced achievement tests, aptitude tests, proficiency tests, and teacher-developed tests.
2. Informs students of the timelines and procedures applicable to their participation in every State assessment. <sup>2</sup>
3. Provides each student's parents/guardians with the results or scores of each State assessment and an evaluation of the student's progress. See policy 6:280, *Grading and Promotion*. <sup>3</sup>
4. Utilizes professional testing practices. <sup>4</sup>

Overall student assessment data on tests required by State law will be aggregated by the District and reported, along with other information, on the District's annual report card.<sup>5</sup> All reliable assessments

---

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

<sup>1</sup> State and federal law control this policy's content. ~~Until 7-1-14, 105 ILCS 5/2-3.64 contained the State assessment program; it was repealed by P.A. 98-972.~~

105 ILCS 5/2-3.64a-5, ~~added by P.A. 98-972~~, requires ISBE to "establish the academic standards that are to be applicable to students who are subject to State assessments." It contains the schedule for assessing students by calendar year and grade. ISBE selected the *Partnership for Assessment of Readiness for College and Careers* (PARCC) as the State assessment and accountability measure. For ISBE resource material, see [www.isbe.net/Pages/Assessment.aspx](http://www.isbe.net/Pages/Assessment.aspx). In House Joint Resolution 54 (2015), members of the Ill. House and Senate encouraged school districts to not use results of the PARCC test for the 2014-2015 school year through the 2017-2018 school year "as a determining factor for making decisions about a student's educational opportunities, the evaluation of educators, and the allocation of resources based on educational achievement on this assessment."

105 ILCS 5/2-3.64a-5(c), amended by P.A. 100-7, requires that the assessment administered by ISBE for the purpose of student application to or admissions consideration by institutions of higher education be administered on a school day during regular student attendance hours.

105 ILCS 5/2-3.64a-5(d), ~~added by P.A. 98-972 and P.A. 99-30 (deleted language from "English language learner)~~, contains the requirements for assessing students receiving special education services and students determined to be English learners.

105 ILCS 5/2-3.64a-5(e), amended by P.A. 100-222, no longer requires that the scores attained by a student on an assessment that includes a college and career readiness determination be entered on the student's transcript. The scores, however, must be placed in the student's permanent record. See 23 Ill.Admin.Code §375.10.

<sup>2</sup> Required by 105 ILCS 5/2-3.64a-5(c), ~~added by P.A. 98-972~~.

<sup>3</sup> 105 ILCS 5/2-3.64a-5(e), ~~added by P.A. 98-972~~ amended by P.A. 100-222, requires districts to provide State assessment results/scores to students' parents/guardians. The second part of this provision is optional and may be deleted, i.e., ~~"and an evaluation of the student's progress."~~

<sup>4</sup> 105 ILCS 5/2-3.107; 23 Ill.Admin.Code §1.30(~~ab~~).

administered by the District and scored by entities outside of the District must be (1) reported to ISBE on its form by the 30<sup>th</sup> day of each school year, and (2) made publicly available to parents and guardians of students.<sup>6</sup> Board policy 7:340, *Student Records*, and its implementing procedures govern recordkeeping and access issues. <sup>7</sup>

LEGAL REF.: Family Educational Rights and Privacy Act, 20 U.S.C. §1232g.  
[Illinois School Student Records Act, 105 ILCS 10/](#)  
105 ILCS 5/2-3.63a-5, 5/2-3.64a-5, 5/10-17a, 5/22-82, and 5/27-1.  
CROSS REF.: 6:15 (School Accountability), 6:280 (Grading and Promotion),  
7:340 (Student Records)

---

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

<sup>5</sup> Required by 105 ILCS 5/10-17a, amended by P.A. 99-642 and P.A. 100-227. School districts must annually, by October 31, submit to parents/guardians, district taxpayers, the Governor, the General Assembly, and ISBE a school report card assessing the performance of its schools and students. The school report card must describe, among other items, student characteristics, curriculum information, student outcomes and progress, and school environment. The environment report must include indicators from the *school climate survey* approved under 105 ILCS 5/2-3.153 (requires ISBE, in addition to its default school climate survey, to identify 2-two or 3-three alternative school survey instruments from which districts may select).

<sup>6</sup> 105 ILCS 5/22-82, added by P.A. 99-590, requires every school district to report for each of its schools, by the 30th day of each school year, all reliable assessments the district administers that are scored by entities outside of the district. The district must make the report on an ISBE-provided form, starting with the 2016-2017 school year. At the date of publication, ISBE announced in its Weekly Message that it sent a survey tool to report the required information the week of 10-3-16 (See Message From State Supt. on 10-4-16 at: [www.isbe.net/Documents/Superintendent\\_Weekly\\_Message/message-10042016.pdf](http://www.isbe.net/Documents/Superintendent_Weekly_Message/message-10042016.pdf)). Because districts have a wide range of starting dates, ISBE will likely establish a reporting window for providing this information.

Each school must also make this information publicly available to the parents and guardians of its students through the district's Internet website or distribute the information in paper form. (Id. at (b)). See 2:250, E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

<sup>7</sup> 105 ILCS 5/2-3.64a-5(e), amended by P.A. 100-222, governs recording assessment results in school student records. See also the Illinois School Student Records Act, 105 ILCS 10/: 23 Ill.Admin.Code §375.10.

## Students

### Equal Educational Opportunities 1

Equal educational and extracurricular opportunities shall be available for all students without regard to color, race, nationality, religion, sex, sexual orientation, ancestry, age, physical or mental disability, gender identity,<sup>2</sup> status of being homeless, immigration status, order of protection status, actual or potential marital or parental status, including pregnancy.<sup>3</sup> Further, the District will not knowingly enter into agreements with any entity or any individual that discriminates against students on the basis of sex or any other protected status, except that the District remains viewpoint neutral when granting access to school facilities under School Board policy 8:20, *Community Use of School Facilities*.<sup>4</sup> Any student may file a discrimination grievance by using Board policy 2:260, *Uniform Grievance Procedure*.<sup>5</sup>

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

<sup>1</sup> State or federal law requires this subject matter be covered by policy and controls this policy's content.

<sup>2</sup> Adopting separate policies or inserting policy statements about accommodations and inclusion of transgender students in the educational program are unsettled areas of the law. Some lawyers believe doing so may open boards to equal protection challenges for not creating separate policies for other protected statuses, e.g., race, nationality, religion, etc. **Consult the board attorney if your board wishes to adopt a separate policy or insert policy statements about accommodations and inclusion of transgender students.**

See 7:10-AP<sup>1</sup>, *Accommodating Transgender Students or Gender Non-Conforming Students* for a case-by-case procedure that school officials may use when a student requests an accommodation based upon his or her gender identity.

For a list of policies that address the equal educational opportunities, health, safety, and general welfare of students within the District, see 7:10-E, *Equal Educational Opportunities Within the School Community*.

<sup>3</sup> Many civil rights laws guarantee equal education opportunities; see citations in the Legal References.

In 23 Ill.Admin.Code §1.240, ISBE states that "no school system may deny access to its schools or programs to students who lack documentation of their immigration status or legal presence in the United States, and no school system may inquire about the immigration status of a student (*Plyler v. Doe*, 457 U.S. 202 (1982))."

The Ill. Human Rights Act ([IHRA](#)) and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity*.<sup>2</sup> (775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240). *Sexual orientation* is defined 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)). *Gender identity* is included in the definition of sexual orientation in the Act. 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). 775 ILCS 5/1-102(A) makes *order of protection status* a protected category.

The ~~Ill. Human Rights Act~~[IHRA](#)'s jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. (775 ILCS 5/5-102.2).

<sup>4</sup> 23 Ill.Admin.Code §200.40(b) prohibits entering into agreements with entities that discriminate against students on the basis on sex. Section 200.80(a)(4) contains an exception for single sex youth organizations, e.g., Boy and Girl Scouts. Note that the U.S. Supreme Court refused to apply N.J.'s public accommodation law to the Boy Scouts because forcing the Scouts to accept a homosexual as a member would violate the Scouts' freedom of expressive association. *Boy Scouts of America v. Dale*, [420 S.Ct. 244](#) [6530 U.S. 640](#) (2002). When deciding whether to allow non-school groups to use its facilities, a public school district may not engage in viewpoint discrimination. *Good News Club v. Milford Central Sch.*, [121 S.Ct. 2093](#) [533 U.S. 98](#) (2001).

<sup>5</sup> Districts must have a grievance procedure. (See Legal References following policy). Absent a specific statute or rule, there is no consensus on whether students have the right to appeal a board's decision to the Regional Superintendent and thereafter to the State Superintendent pursuant to 105 ILCS 5/2-3.8.

## Sex Equity <sup>6</sup>

No student shall, based on sex, sexual orientation, or gender identity be denied equal access to programs, activities, services, or benefits or be limited in the exercise of any right, privilege, advantage, or denied equal access to educational and extracurricular programs and activities.

Any student may file a sex equity complaint by using Board policy 2:260, *Uniform Grievance Procedure*. A student may appeal the Board's resolution of the complaint to the Regional Superintendent (pursuant to 105 ILCS 5/3-10) and, thereafter, to the State Superintendent of Education (pursuant to 105 ILCS 5/2-3.8). <sup>7</sup>

## Administrative Implementation

The Superintendent shall appoint a Nondiscrimination Coordinator.<sup>8</sup> The Superintendent and Building Principal shall use reasonable measures to inform staff members and students of this policy and grievance procedure. <sup>9</sup>

---

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

<sup>6</sup> Every district must have a policy on sex equity. ~~(23 Ill.Admin.Code §200.40(b)). The Ill. Human Rights Act (IHRA), Public Accommodation section, prohibits schools from: (1) failing to enroll an individual, (2) denying a individual access to its facilities, goods, or services, or (3) failing take corrective action to stop severe or pervasive harassment of an individual (775 ILCS 5-102.2), on the basis of the individual's sex or sexual orientation, among other classifications (775 ILCS 5/5-101). Districts must periodically evaluate their policies and practices to identify and eliminate sex discrimination as well as evaluate course enrollment data to identify disproportionate enrollment based on sex. In-service training for all staff members is required. ~~(23 Ill.Admin.Code §1.420).~~~~

With some exceptions, Title IX guarantees that "[n]o person in the United States shall, on the basis of gender, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance..." ~~(20 U.S.C. §§1681(a)). Equal participation and equal opportunity in athletics is addressed in the U.S. Dept. of Education's implementing rules. ~~(34 C.F.R. §106.41).~~ Generally, when a school district offers a team for one gender but not for the other, a member of the excluded gender is allowed to try out for the team unless the sport is a *contact sport*. Contact sports are boxing, wrestling, rugby, ice hockey, football, basketball, and other sports involving bodily contact. The rules also list the factors that determine whether equal opportunities are available to both genders. These include: whether the selection of athletics accommodates the interests and abilities of both genders; equipment and supplies; scheduling; opportunity to receive coaching and academic tutoring; locker rooms, practice facilities, and fields; and publicity.~~

~~105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-29, eff. 1-1-18, requires public schools to provide reasonable accommodations to breastfeeding students. See 7:10-AP-2, *Accommodating Breastfeeding Students*, for specific reasonable accommodations under Illinois law.~~

~~105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-163, eff. 1-1-18, requires school districts to make feminine hygiene products (defined as tampons and sanitary napkins for use in connection with the menstrual cycle) available, at no cost to students, in the bathrooms of school buildings serving students in grades 6 through 12. **Note:** The statute does not delineate between types of bathrooms (student, staff, girls, boys, unisex, etc.). Consult with the board attorney about implementing this law.~~

<sup>7</sup> Districts must have a grievance procedure and must tell students that they may appeal a board's resolution of a sex equity complaint to the Regional Superintendent and, thereafter, to the State Superintendent. ~~(23 Ill.Admin.Code § 200.40).~~ Student complaints regarding breastfeeding accommodations must also be processed in accordance with these procedures. See 2:260, *Uniform Grievance Procedure* at f/n 5.

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." ~~P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.~~

<sup>8</sup> Required by regulations implementing Title IX. ~~(34 C.F.R. Part 106.8).~~

<sup>9</sup> Required by regulations implementing Title IX. ~~(34 C.F.R. Part 106; 23 Ill.Admin.Code §200.40).~~ Comprehensive Faculty and student handbooks can provide required notices, along with other important information, to recipients. Handbooks can be developed by the building principal, but should be reviewed and approved by the superintendent and board. Faculty handbooks may contain working conditions and be subject to mandatory collective bargaining.



LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972, implemented by 34 C.F.R. Part 106.  
29 U.S.C. §791 et seq., Rehabilitation Act of 1973.  
42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.  
Good News Club v. Milford Central Sch., 533 U.S. 98 (2001).  
Ill. Constitution, Art. I, §18.  
105 ILCS 5/3.25b, 5/3.25d(b), 5/10-20.12, 5/10-20.60 (P.A.s 100-29 and 100-163, final citations pending), 5/10-22.5, and 5/27-1.  
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.  
775 ILCS 35/5, Religious Freedom Restoration Act.  
23 Ill.Admin.Code §1.240 and Part 200.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 6:65 (Student Social and Emotional Development), 7:20 (Harassment of Students Prohibited), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:130 (Student Rights and Responsibilities), 7:160 (Student Appearance), 7:165 (Student Uniforms), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:250 (Student Support Services), 7:330 (Student Use of Buildings - Equal Access), 7:340 (Student Records), 8:20 (Community Use of School Facilities)

## Students

### Student and Family Privacy Rights <sup>1</sup>

#### Surveys <sup>2</sup>

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 School Board 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 and regardless of who created the survey.

#### Surveys Created by a Third Party <sup>3</sup>

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.

#### Survey Requesting Personal Information <sup>4</sup>

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.
2. Mental or psychological problems of the student or the student's family.

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

<sup>1</sup> 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 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. Department 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.

<sup>2</sup> 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 IASB sample board 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 f/n 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.

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

<sup>4</sup> 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.

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,<sup>5</sup> and/or
2. Refuse to allow their child ~~or ward~~ to participate in the activity described above.<sup>6</sup> The school shall not penalize any student whose parent(s)/guardian(s) exercised this option.

#### Instructional Material <sup>7</sup>

A student's parent(s)/guardian(s) may inspect, upon their request, any instructional material used as part of their child/~~ward~~'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. <sup>8</sup>

#### Physical Exams or Screenings <sup>9</sup>

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:

1. Is permitted or required by an applicable State law, including physical examinations or screenings that are permitted without parental notification. <sup>10</sup>

---

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

<sup>5</sup> ~~20 U.S.C. §1232h(c)(1)(C)(i)~~<sup>H</sup>.

<sup>6</sup> 20 U.S.C. §1232h(c)(2)(A)(ii).

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

<sup>8</sup> 20 U.S.C. §1232h(c)(6)(A).

<sup>9</sup> The Protection of Pupil Rights Act states that student's parent(s)/guardian(s) may refuse to allow ~~their child or ward~~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 ~~their child or ward~~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.

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.

**Selling or Marketing Students’ Personal Information Is Prohibited 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**

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 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**

---

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

**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, 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 ~~f20 U.S.C. §1232h(e)(1)(E)~~ 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.

**14** 20 U.S.C. §1232h(c)(6)(E); Children’s Privacy Protection and Parental Empowerment Act, 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 17/10H.

**16** 105 ILCS 5/10-20.38.

## 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 ~~or ward~~ 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 parents/guardians at least annually, at the beginning of the school year, and within a reasonable period after any substantive change in this policy.

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.  
325 ILCS 17/, Children's Privacy Protection and Parental Empowerment Act.  
105 ILCS 5/10-20.38.

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)

---

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

**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).

## Students

### Harassment of Students Prohibited 1

#### Bullying, Intimidation, and Harassment Prohibited

No person, including a District employee or agent, or student, shall harass, intimidate, or bully a student on the basis of actual or perceived: race; color; national origin; military status; unfavorable discharge status from military service; sex; sexual orientation; gender identity; gender-related identity or expression; ancestry; age; religion; physical or mental disability; order of protection status; status of being homeless; actual or potential marital or parental status, including pregnancy; association with a person or group with one or more of the aforementioned actual or perceived characteristics; or any other distinguishing characteristic. The District will not tolerate harassing, intimidating conduct, or bullying whether verbal, physical, sexual, or visual, that affects the tangible benefits of education, that unreasonably interferes with a student’s educational performance, or that creates an intimidating, hostile, or offensive educational environment. Examples of prohibited conduct include name-calling, using derogatory slurs, stalking, sexual violence, causing psychological harm, threatening or causing physical harm, threatened or actual destruction of property, or wearing or possessing items depicting or implying hatred or prejudice of one of the characteristics stated above. 2

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 and controls this policy’s content. Each district must have a policy on bullying. ~~(105 ILCS 5/27-23.7, amended by P.A. 100-13798-669);~~ see 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

This policy’s list of protected classifications is identical to the list in 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The protected classifications are found in 105 ILCS 5/27-23.7(a); 775 ILCS 5/1-103; and 23 Ill.Admin.Code §1.240.

The list of protected classifications in sample policy 7:10, *Equal Educational Opportunities*, is different – it does not contain the classifications that are exclusively identified in the bullying statute. ~~(105 ILCS 5/27-23.7).~~

The Ill. Human Rights Act (IHRA) and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity*. ~~(775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240).~~ *Sexual orientation* is defined 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)).~~ *Gender identity* is included in the definition of sexual orientation in the Act. 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). 775 ILCS 5/1-102(A), added order of protection status to its list of protected categories. The Ill. Human Rights Act (IHRA)’s jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. (775 ILCS 5/5-102.2).~~

2 This list of examples of prohibited conduct is optional. While hate speech is not specifically mentioned in this paragraph, any hate speech used to harass or intimidate is banned. Hate speech without accompanying misconduct may be prohibited in response to actual incidences when hate speech interfered with the educational environment. West v. Derby Unified Sch. Dist., 206 F.3d 1358 (10th Cir. 2000).

## Sexual Harassment Prohibited

Sexual harassment of students is prohibited.<sup>3</sup> Any person, including a district employee or agent, or student, engages in sexual harassment whenever he or she makes sexual advances, requests sexual favors, and/or engages in other verbal or physical conduct, including sexual violence, of a sexual or sex-based nature, imposed on the basis of sex, that:

1. Denies or limits the provision of educational aid, benefits, services, or treatment; or that makes such conduct a condition of a student's academic status; or
2. Has the purpose or effect of:
  - a. Substantially interfering with a student's educational environment;
  - b. Creating an intimidating, hostile, or offensive educational environment;
  - c. Depriving a student of educational aid, benefits, services, or treatment; or
  - d. Making submission to or rejection of such conduct the basis for academic decisions affecting a student.

The terms *intimidating*, *hostile*, and *offensive* include conduct that has the effect of humiliation, embarrassment, or discomfort. Examples of sexual harassment include touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, and spreading rumors related to a person's alleged sexual activities. The term *sexual violence* includes a number of different acts. Examples of sexual violence include, but are not limited to, rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

## Making a Complaint: Enforcement

Students are encouraged to report claims or incidences of bullying, harassment, sexual harassment, or any other prohibited conduct to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, ~~or~~ a Complaint Manager, or any staff member with whom the student is comfortable speaking.<sup>4</sup> A student may choose to report to a person of the student's same

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

<sup>3</sup> Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination on the basis of sex in any educational program or activity receiving federal financial assistance, ~~(20 U.S.C. §1681).~~ For purposes of Title IX, sexual harassment of students includes acts of sexual violence. Consult the board attorney to ensure the non-discrimination coordinator and complaint managers are trained to appropriately respond to allegations of discrimination based upon sexual violence under Title IX's sexual harassment umbrella. Several guidance documents highlight appropriate responses to sexual violence under Title IX. See ~~f/n 34~~ in policy 2:260, *Uniform Grievance Procedure* for a listing and links to these documents.

The sample policy's definition of *sexual harassment* does not distinguish between *welcome* and *unwelcome* behaviors - each is prohibited if it has a result described in sub-paragraph 1 or 2. See Mary M. v. North Lawrence Community School Sch. Corp., 131 F.3d 1220 (7th Cir., 1997) (An eighth grade student did not need to show that a school employee's sexual advances were *unwelcome* in order to prove sexual harassment.).

School districts are liable for damage awards for an employee's sexual harassment of a student in limited situations. Liability occurs only when a district official who, at a minimum, has authority to institute corrective action, has actual notice of and is deliberately indifferent to the employee's misconduct. Gebser v. Lago Vista Independent School Sch. District, ~~118 S.Ct. 1989~~ 524 U.S. 274 (1998). Schools are liable in student-to-student sexual harassment cases when school agents are deliberately indifferent to sexual harassment, of which they have actual knowledge, that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school. Davis v. Monroe County Board of Education, ~~119 S.Ct. 1661~~ 526 U.S. 629 (1999). The Ill. Dept. of Human Rights now has jurisdiction over allegations that a school failed to take corrective action to stop severe or pervasive harassment of an individual based upon a protected category. ~~(775 ILCS 5/5-102.2).~~

<sup>4</sup> Using "or any staff member with whom the student is comfortable speaking" is consistent with 7:180, Prevention of and Response to Bullying, Intimidation, and Harassment. By including "any staff member" in this list, 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.

sex. Complaints will be kept confidential to the extent possible given the need to investigate. Students who make good faith complaints will not be disciplined.

An allegation that a student was a victim of any prohibited conduct perpetrated by another student shall be referred to the Building Principal, Assistant Building Principal, or Dean of Students for appropriate action.

The Superintendent shall insert into this policy the names, addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.<sup>5</sup> At least one of these individuals will be female, and at least one will be male.

**Nondiscrimination Coordinator: 6**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

The Superintendent shall use reasonable measures to inform staff members and students of this policy, such as, by including it in the appropriate handbooks. <sup>7</sup>

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

<sup>5</sup> Title IX regulations require districts to identify the person, address, and telephone number of the individual responsible for coordinating the district's compliance efforts. The U.S. Dept. of Education's Office for Civil Rights prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (a) a *Dear Colleague Letter on Title IX Coordinators*; (b) a *Letter to Title IX Coordinators* that provides them with more information about their role; and (c) a *Title IX Resource Guide* that includes an overview of Title IX's requirements with respect to several key issues. See [www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html](http://www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html).

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

Each district must communicate its bullying policy to students and their parents/guardians. (105 ILCS 5/27-23.7, amended by P.A. 100-137); see 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

<sup>6</sup> Sample policy 2:260, *Uniform Grievance Procedure*, states that a district's Nondiscrimination Coordinator also serves as its Title IX Coordinator. Best practice is that throughout the district's board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.



Any District employee who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action up to and including discharge. Any District student who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action, including but not limited to, suspension and expulsion consistent with the behavior policy. Any person making a knowingly false accusation regarding prohibited conduct will likewise be subject to disciplinary action up to and including discharge, with regard to employees, or suspension and expulsion, with regard to students.

- LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972.  
34 C.F.R. Part 106.  
105 ILCS 5/10-20.12, 10-22.5, 5/27-1, and 5/27-23.7.  
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.  
23 Ill.Admin.Code §1.240 and Part 200.  
Davis v. Monroe County Board of Education, 526 U.S. 629 (1999).  
Franklin v. Gwinnett Co. Public Schools, 503 U.S. 60 (1992).  
Gebser v. Lago Vista Independent School District, 524 U.S. 274 (1998).  
West v. Derby Unified School District No. 260, 206 F.3d 1358 (10th Cir., 2000).
- CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:20 (Workplace Harassment Prohibited), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:240 (Conduct Code for Participants in Extracurricular Activities)

---

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

<sup>7</sup> In addition to notifying students of the Uniform Grievance Procedure, a district must notify them of the person(s) designated to coordinate the district's compliance with Title IX. 34 C.F.R. Part 106.8(a). A comprehensive student handbook can provide required notices, along with other important information to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and school board.

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](http://www.ilprincipals.org/resources/model-student-handbook).

## Students

### Attendance and Truancy 1

#### Compulsory School Attendance 2

This policy applies to individuals who have custody or control of a child: (a) between the ages of six (on or before September 1) and 17 years (unless the child has graduated from high school), or (b) who is enrolled in any of grades kindergarten through 12 in the public school regardless of age.

Subject to specific requirements in State law, the following children are not required to attend public school: (1) any child attending a private school (including a home school) or parochial school, (2) any child who is physically or mentally unable to attend school (including a pregnant student suffering medical complications as certified by her physician), (3) any child lawfully and necessarily employed, (4) any child over 12 and under 14 years of age while in confirmation classes, (5) any child absent because his or her religion forbids secular activity on a particular day, and (6) any child 16 years of age or older who is employed and is enrolled in a graduation incentives program.

The parent/guardian of a student who is enrolled must authorize all absences from school and notify the school in advance or at the time of the student's absence. A valid cause for absence includes illness, observance of a religious holiday, death in the immediate family, family emergency, other situations beyond the control of the student, other circumstances that cause reasonable concern to the parent/guardian for the student's safety or health, or other reason as approved by the Superintendent or designee. 3

#### Absenteeism and Truancy Program

The Superintendent or designee shall manage an absenteeism and truancy program in accordance with the School Code and School Board policy. The program shall include but not be limited to:

1. A protocol for excusing a student from attendance who is necessarily and lawfully employed. The Superintendent or designee is authorized to determine when the student's absence is justified. 4

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

<sup>1</sup> State law requires boards to adopt a policy covering some of the topics herein and controls this policy's content. 105 ILCS 5/26-13 requires a policy identifying supportive services and available resources for *truants and chronic truants (defined in 105 ILCS 5/26-2a)*. 23 Ill.Admin.Code §1.290 requires the same plus that the policy contain a definition of *valid cause* for absence in accordance with 105 ILCS 5/26-2a and a description of diagnostic procedures to identify the cause(s) of *unexcused student* absenteeism.

<sup>2</sup> 105 ILCS 5/26-2 addresses enrolled students below or over set compulsory attendance ages. The law also requires any persons having custody or control of a child who is enrolled in grades kindergarten through 12 in the public school to cause the child to attend school.

105 ILCS 5/26-1 contains the compulsory school age exemptions. Each listed exception is specifically included in the statute, except the reference to *home school*. See ~~policy-7:40, Nonpublic School Students, Including Parochial and Home-Schooled Students~~, regarding assigning students who enroll from a non-public school. See ~~policy-6:150, Home and Hospital Instruction~~, regarding providing instruction to a pregnant student who is medically unable to attend school.

<sup>3</sup> These reasons are in 105 ILCS 5/26-2a, except that "other reason as approved by the Superintendent" was added. ISBE rule requires that the absenteeism and truancy policy defines valid causes for absence. ~~(23 Ill.Admin.Code §1.290)~~.

<sup>4</sup> Any child "necessarily and lawfully employed" may be exempted from attendance by the superintendent "on certification of the facts by and the recommendation of the school board." ~~(105 ILCS 5/26-1)~~. The policy's language serves to delegate this "certification of the facts" to the superintendent or designee. The following option allows a board to consider and include specific criteria in the policy:

2. A protocol for excusing a student in grades 6 through 12 from attendance to sound *Taps* at a military honors funeral held in Illinois for a deceased veteran. <sup>5</sup>
- 2.3. A protocol for excusing a student from attendance on a particular day(s) or at a particular time of day when his/her parent/guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or combat-support postings.<sup>6</sup>
- 3.4. A process to telephone, within two hours after the first class, the parents/guardians of students in grade 8 or below who are absent without prior parent/guardian notification. <sup>7</sup>
- 4.5. A process to identify and track students who are truants, chronic or habitual truants, or truant minors as defined in the School Code, Section 26-2a.
- 5.6. A description of diagnostic procedures for identifying the cause(s) of a student's unexcused absenteeism, including interviews with the student, his or her parent(s)/guardian(s), and staff members or other people who may have information about the reasons for the student's attendance problem. <sup>8</sup>
- 6.7. The identification of supportive services that may be offered to truant, ~~or~~ chronically truant, or chronically absent students, including parent-teacher conferences, student and/or family counseling, or information about community agency services.<sup>9</sup> See Board policy 6:110,

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

A student may be excused, at the Superintendent's discretion, when: (1) the student has a last period study hall, (2) the parent/guardian provides written permission, (3) the student's employer provides written verification of employment, (4) the student provides evidence of a valid work permit, or (5) other reason deemed justifiable by the Superintendent.

Child Labor laws include: 29 C.F.R. Part 570 (minimum age standards, occupations, conditions, etc.); 820 ILCS 205/ (child labor laws); 56 Ill.Admin.Code Part 250 (child labor regulations).

<sup>5</sup> 105 ILCS 5/26-1, amended by P.A. 99-804, ~~eff. 1-1-17~~. A student must notify the building principal or other administrator at least two days prior to the absence providing the date, time, and location of the military honors funeral. This requirement may be waived if the student did not receive notice at least two days in advance, but the student shall notify the administration as soon as possible of the absence.

A student whose absence is excused to sound *Taps* shall be counted in attendance for purposes of calculating the average daily attendance of students in the district. The district must allow the student reasonable time to make up school work and if school work is satisfactorily completed, the day of absence is counted as an attendance day for the student.

6 105 ILCS 5/26-1, amended by P.A. 100-185. Such a student must be granted five days of excused absences in any school year and, at the board's discretion, may be granted additional excused absences to visit the student's parent/guardian. The student and his/her parent/guardian are responsible for obtaining assignments from the student's teacher prior to any period of excused absence and for ensuring that such assignments are completed by the student prior to his/her return to school from the excused absence period. Id.

<sup>7</sup> This notification is required by 105 ILCS 5/26-3b.

<sup>8</sup> 23 Ill.Admin.Code §1.290(b)(2).

105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-163, eff. 1-1-18, requires school districts to make feminine hygiene products (defined as tampons and sanitary napkins for use in connection with the menstrual cycle) available, at no cost to students, in the bathrooms of school buildings serving students in grades 6 through 12. The General Assembly found this requirement necessary because "when students do not have access to affordable feminine hygiene products, they may miss multiple days of school every month." 105 ILCS 5/10-20.60(a)(3).

<sup>9</sup> 23 Ill.Admin.Code §1.290(b)(3). The School Code references to dropout prevention include: 105 ILCS 5/26-3a (regional superintendent activities and annual report); 105 ILCS 5/10-20.25a (annual report by boards); and 105 ILCS 5/1A-4(E) (~~State Board of Education~~ ISBE report).

*Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program.*

- ~~7.8.~~ A process to request the assistance and resources of outside agencies, such as, the juvenile officer of the local police department or the truant office of the appropriate Regional Office of Education, if truancy continues after supportive services have been offered. **10**
- ~~8.9.~~ A protocol for cooperating with non-District agencies including County or municipal authorities, the Regional Superintendent, truant officers, the Community Truancy Review Board, and a comprehensive community based youth service agency. Any disclosure of school student records must be consistent with Board policy 7:340, *Student Records*, as well as State and federal law concerning school student records. **11**
- ~~9.10.~~ An acknowledgement that no punitive action, including out-of-school suspensions, expulsions, or court action, shall be taken against a chronic truant for his or her truancy unless available supportive services and other school resources have been provided to the student. **12**
- ~~10.11.~~ The criteria to determine whether a student's non-attendance is due to extraordinary circumstances shall include economic or medical necessity or family hardship and such other criteria that the Superintendent believes qualifies. **13**

---

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

105 ILCS 5/26-18, added by P.A. 100-156, eff. 1-1-18, requires that, beginning 7-1-18, districts collect and review chronic absence data and determine what systems of support and resources are needed to engage chronically absent students and their families to encourage the habit of daily attendance and promote success. 105 ILCS 5/26-18(c). The review must include an analysis of chronic absence data from each attendance center. Id. Districts are also encouraged to: (1) provide a system of support to students at risk of reaching or exceeding chronic absence levels, i.e., those available through the Illinois Multi-tiered Systems of Support Network; and (2) make resources available to families, i.e., those available through ISBE's Family Engagement Framework, to support and engage students and their families. 105 ILCS 5/26-18(d). Chronic absence means "absences that total 10% or more of school days of the most recent school year, including absences with and without valid cause, as defined in Section 26-2a of this Code, and out-of-school suspensions for an enrolled student." 105 ILCS 5/26-18(a). In contrast, a chronic or habitual truant is "a child who is subject to compulsory school attendance and who is absent without valid cause from such attendance for 5% or more of the previous 180 regular attendance days." 105 ILCS 5/26-2a.

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

**11** 105 ILCS 5/26-9 requires school officers and superintendents to assist truant officers. A minor who is reported by the regional superintendent as a chronic truant may be adjudicated a "truant minor in need of supervision" if the minor declines or refuses to fully participate in truancy intervention services. ~~(705 ILCS 405/3-33.5).~~

Counties may regulate truants by ordinance and impose fines and/or community services on truants or, if the truant is under 10 years of age, on the parent or custodian. ~~(55 ILCS 5/5-1078.2).~~ Municipalities may regulate truants by ordinance and impose fines and/or community services on truants or, if the truant is under 13 years of age, on the parent or custodian. ~~(65 ILCS 5/11-5-9).~~ Local officials or authorities that enforce, prosecute, or adjudicate municipal ordinances adopted under 65 ILCS 5/11-5-9, or that work with school districts to address truancy problems, are designated as: (a) part of the juvenile justice system, established by the Juvenile Court Act of 1987, and (b) *juvenile authorities* within the definition set forth in subsection (a)(6.5) of Section 10-6 of the Ill. School Student Records Act (105 ILCS 10/6(a)(6.5)). **Id. A superintendent should consult with the board attorney before disclosing school student records to non-district entities.** See 7:340-AP, *Student Records* for a sample procedure for release of such records to juvenile authorities.

**12** 105 ILCS 5/26-12 prohibits punitive action "unless available supportive services and other school resources have been provided to the student."

**13** 105 ILCS 5/26-3a requires the district to "establish, in writing, a set of criteria for use by the local superintendent of schools in determining whether a pupil's failure to attend school is the result of extraordinary circumstances, including but not limited to economic or medical necessity or family hardship."

[For high school and unit districts only]

~~11.12.~~<sup>14</sup>A process for a 17-year-old resident to participate in the District's various programs and resources for truants.<sup>14</sup> The student must provide documentation of his/her dropout status for the previous six months. A request from an individual 19 years of age or older to re-enroll after having dropped out of school is handled according to provisions in 7:50, *Students School Admissions and Student Transfers To and From Non-District Schools*.

~~12.13.~~A process for the temporary exclusion of a student 17 years of age or older for failing to meet minimum academic or attendance standards according to provisions in State law. A parent/guardian has the right to appeal a decision to exclude a student. <sup>15</sup>

LEGAL REF.: 105 ILCS 5/26-1 through 16.  
705 ILCS 405/3-33.5, Juvenile Court Act of 1987.  
23 Ill.Admin.Code §§1.242 and 1.290.

CROSS REF.: 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 6:150 (Home and Hospital Instruction), 7:10 (Equal Educational Opportunities), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:80 (Release Time for Religious Instruction/Observance), 7:190 (Student Behavior), 7:340 (Student Records)

---

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

This statute also requires the "clerk or secretary" of the board to quarterly report to the regional superintendent and Secretary of State the identity of students who were removed from the regular attendance roll, exclusive of transferees, because they were expelled; have withdrawn; left school; withdrew due to extraordinary circumstances; have re-enrolled in school since their names were removed from the attendance rolls; were certified to be chronic or habitual truants; or were previously certified as chronic or habitual truants who have resumed regular school attendance. The statute provides that the status of a driver's license or instructional permit will be jeopardized for a student who is the subject of this notification because of non-attendance unless the non-attendance is due to extraordinary circumstances as determined by the local district. State Superintendent Koch announced in his *Weekly Message*, 8-28-07, see Funding & Disbursements subhead, p.2, at: [www.isbe.net/Documents/Superintendent\\_Weekly\\_Message/message\\_082807.pdf](http://www.isbe.net/Documents/Superintendent_Weekly_Message/message_082807.pdf), p.2, that ISBE is delaying implementing this statute based upon legal guidance from the U.S. Department of Education's Family Policy Compliance Office that its implementation would violate the federal Family Educational Rights and Privacy Act.

<sup>14</sup> A district must allow this participation; the length of the drop-out period and the documentation requirement contained in the next sentence are permissive. (105 ILCS 5/26-14).

<sup>15</sup> Optional, but provided in 105 ILCS 5/26-2(c)(3); ISBE's rule controls the appeal process, 23 Ill.Admin.Code §1.242.

## Students

### Agency and Police Interviews

The Superintendent shall develop procedures to manage requests by agency officials or police officers to interview students at school. Procedures will: (1) recognize individual student rights and privacy, (2) minimize potential disruption, (3) foster a cooperative relationship with public agencies and law enforcement, and (4) comply with State law. <sup>1</sup>

LEGAL REF.: 55 ILCS 80/, Children's Advocacy Center Act.  
325 ILCS 5/, Abused and Neglected Child Reporting Act.  
720 ILCS 5/31-1 et seq., Interference with Public Officers Act.  
725 ILCS 120/, Rights of Crime Victims and Witnesses Act.

CROSS REF.: 7:130 (Student Rights and Responsibilities), 7:140 (Search and Seizure), 7:190 (Student Behavior)

---

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

<sup>1</sup> State or federal law controls this policy's content. The listed standards for procedures, other than compliance with State law, are at the local school board's discretion and may be omitted altogether. The Illinois TRUST Act, 5 ILCS 805/, added by P. A. 100-463, prohibits law enforcement agencies and officials from enforcing federal civil immigration laws. Under Section 15(b), law enforcement cannot stop, arrest, search, detain, or continue to detain a person solely based on an individual's citizenship or immigration status.

An excellent resource is the *Guidelines for Interviews of Students*, published by the Ill. Council of School Attorneys (ICSA) and available at: [www.iasb.com/law/ICSAGuidelinesforInterviewsofStudents2015.pdf](http://www.iasb.com/law/ICSAGuidelinesforInterviewsofStudents2015.pdf). The publication, *Policing in Schools, Developing a Governance Document for School Resource Officers in K-12 Schools*, was developed by the American Civil Liberties Union, and is available at: [www.aclu.org/racial-justice/policing-schools-developing-governance-document-school-resource-officers-k-12-schools](http://www.aclu.org/racial-justice/policing-schools-developing-governance-document-school-resource-officers-k-12-schools). It, like the ICSA *Guidelines*, highlights the need for collaboration between law enforcement and school officials. It recommends that school officials provide law enforcement agencies with information about the school's mission to ensure a safe school environment while respecting student rights. To accomplish this, the white paper recommends that school officials create a "model governance document" (e.g., 7:150-AP, *Administrative Procedure—Agency and Police Interviews*) and provide it to the law enforcement authorities with whom they work.

105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-204, prohibits student booking stations from being established or maintained on school grounds. A student booking station is "a building, office, room, or any indefinitely established space or site, mobile or fixed, which operates concurrently as: (1) predominantly or regularly a place of operation for a municipal police department, county sheriff department, or other law enforcement agency, or under the primary control thereof; and (2) a site at which students are detained in connection with criminal charges or allegations against those students, taken into custody, or engaged with law enforcement personnel in any process that creates a law enforcement record of that contact with law enforcement personnel or processes." 105 ILCS 5/10-20.60(d) (final citation pending).

## Students

### Prevention of and Response to Bullying, Intimidation, and Harassment 1

Bullying, intimidation, and harassment diminish a student's ability to learn and a school's ability to educate. Preventing students from engaging in these disruptive behaviors and providing all students equal access to a safe, non-hostile learning environment are important District goals.

Bullying on the basis of actual or perceived race, color, national origin, military status, unfavorable discharge status from the military service, sex, sexual orientation, gender identity, gender-related identity or expression, ancestry, age, religion, physical or mental disability, order of protection status, status of being homeless, or actual or potential marital or parental status, including pregnancy, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic **is prohibited** in each of the following situations: 2

1. During any school-sponsored education program or activity.
2. While in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities.
3. Through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment.
4. Through the transmission of information from a computer that is accessed at a nonschool-related location, activity, function, or program or from the use of technology or an electronic device that is not owned, leased, or used by the School District or school if the bullying causes a substantial disruption to the educational process or orderly operation of a school. This paragraph (item #4) applies only when a school administrator or teacher receives a report that bullying through this means has occurred; it does not require staff members to monitor any nonschool-related activity, function, or program.

### Definitions from Section 27-23.7 of the School Code (105 ILCS 5/27-23.7) 3

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

<sup>1</sup> All districts must have a policy on bullying. ~~(105 ILCS 5/27-23.7, amended by P.A.s 100-13798-669 and 98-801 (eff. 1-1-2015)).~~ Every ~~two~~ years, each district must review and re-evaluate this policy, make necessary and appropriate revisions, and file the updated policy with ISBE. This sample policy's first paragraph allows a school board to consider its goals for preventing bullying and remedying its consequences; it may be amended.

In addition to a bullying prevention policy, all districts must have a policy on student behavior. ~~(105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280).~~ Boards must, in consultation with their parent-teacher advisory committees and other community-based organizations, address aggressive behavior, including bullying, in their student behavior policy. See 7:190, *Student Behavior*; 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

~~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. See f/n 7, below.~~

<sup>2</sup> This paragraph and its subparts 1-4 are from the bullying prevention statute. ~~(105 ILCS 5/27-23.7(a); see also 775 ILCS 5/1-103 and 23 Ill.Admin.Code §1.240).~~ The protected statuses are mandated by the bullying prevention statute; the list of protected statuses is identical to the list in 7:20, *Harassment of Students Prohibited*.

<sup>3</sup> All definitions are directly from 105 ILCS 5/27-23.7, amended by P.A.s ~~100-13798-669 and 98-801 (eff. 1-1-2015)~~.

*Bullying* includes *cyberbullying* and means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

1. Placing the student or students in reasonable fear of harm to the student's or students' person or property;
2. Causing a substantially detrimental effect on the student's or students' physical or mental health;
3. Substantially interfering with the student's or students' academic performance; or
4. Substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school.

*Cyberbullying* means bullying through the use of technology or any electronic communication, including without limitation any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photo-electronic system, or photo-optical system, including without limitation electronic mail, Internet communications, instant messages, or facsimile communications. *Cyberbullying* includes the creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages if the creation or impersonation creates any of the effects enumerated in the definition of *bullying*. *Cyberbullying* also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the effects enumerated in the definition of *bullying*.

*Restorative measures* means a continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that: (i) are adapted to the particular needs of the school and community, (ii) contribute to maintaining school safety, (iii) protect the integrity of a positive and productive learning climate, (iv) teach students the personal and interpersonal skills they will need to be successful in school and society, (v) serve to build and restore relationships among students, families, schools, and communities, and (vi) reduce the likelihood of future disruption by balancing accountability with an understanding of students' behavioral health needs in order to keep students in school.

*School personnel* means persons employed by, on contract with, or who volunteer in a school district, including without limitation school and school district administrators, teachers, school guidance counselors, school social workers, school counselors, school psychologists, school nurses, cafeteria workers, custodians, bus drivers, school resource officers, and security guards.

#### Bullying Prevention and Response Plan

The Superintendent or designee shall develop and maintain a bullying prevention and response plan that advances the District's goal of providing all students with a safe learning environment free of bullying and harassment. This plan must be consistent with the requirements listed below; each numbered requirement, 1-12, corresponds with the same number in the list of required policy components in 105 ILCS 5/27-23.7(b) 1-12. **4**

1. The District uses the definition of *bullying* as provided in this policy. **5**

---

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

**4** As each numbered requirement, 1-12, corresponds with the same number in 5/27-23.7(b)-1-12, there are no reference citations in footnotes. All non-statutory requirements, plus alternatives and optional provisions, are described in footnotes.

**5** A board may augment the School Code requirement by using this alternative:



2. Bullying is contrary to State law and the policy of this District. However, nothing in the District’s bullying prevention and response plan is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment to the U.S. Constitution or under Section 3 of Article I of the Illinois Constitution.
3. Students are encouraged to immediately report bullying. A report may be made orally or in writing to the ~~District Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a~~ Complaint Manager, or any staff member with whom the student is comfortable speaking.<sup>6</sup> Anyone, including staff members and parents/guardians, who has information about actual or threatened bullying is encouraged to report it to the District ~~named officials–Complaint Manager~~ or any staff member. The District named officials and all staff members are available for help with a bully or to make a report about bullying.<sup>7</sup> Anonymous reports are also accepted.

**Complaint Manager Nondiscrimination Coordinator: 8**

\_\_\_\_\_

Name

\_\_\_\_\_

Address

\_\_\_\_\_

Email

\_\_\_\_\_

Telephone

---

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

Using the definition of *bullying* as provided in this policy, the Superintendent or designee shall emphasize to the school community that: (a) the District prohibits bullying, and (b) all students should conduct themselves with a proper regard for the rights and welfare of other students. This may include a process for commending or acknowledging students for demonstrating appropriate behavior.

<sup>6</sup> The statute requires that the policy contain the email address and telephone number for the staff person(s) responsible for receiving bullying reports. Using the district ~~Complaint Manager or Nondiscrimination Coordinator and Complaint Managers~~ is consistent with 2:260, *Uniform Grievance Procedure*. While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored. A board may substitute or add the Nondiscrimination Coordinator, Building Principal, or other position in this paragraph and below with the contact information. A board may also add a telephone number for making anonymous reports may also be added.

<sup>7</sup> 105 ILCS 5/27-23.7(d), amended by P.A. 100-137, requires that “[s]chool personnel available for help with a bully or to make a report about bullying” be made known to parents/guardians, students, and school personnel.

<sup>8</sup> Sample policy 2:260, *Uniform Grievance Procedure*, states that a district’s Nondiscrimination Coordinator also serves as its Title IX Coordinator. Best practice is that throughout the district’s board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

**Complaint Managers:**

Name

Name

Address

Address

Email

Email

Telephone

Telephone

4. Consistent with federal and State laws and rules governing student privacy rights, the Superintendent or designee shall promptly inform the parent(s)/guardian(s) of every student involved in an alleged incident of bullying and discuss, as appropriate, the availability of social work services, counseling, school psychological services, other interventions, and restorative measures. <sup>9</sup>
5. The Superintendent or designee shall promptly investigate and address reports of bullying, by, among other things:
  - a. Making all reasonable efforts to complete the investigation within 10 school days after the date the report of a bullying incident was received and taking into consideration additional relevant information received during the course of the investigation about the reported bullying incident.
  - b. Involving appropriate school support personnel and other staff persons with knowledge, experience, and training on bullying prevention, as deemed appropriate, in the investigation process.
  - c. Notifying the Building Principal or school administrator or designee of the reported incident of bullying as soon as possible after the report is received.
  - d. Consistent with federal and State laws and rules governing student privacy rights, providing parents/guardians of the students who are parties to the investigation information about the investigation and an opportunity to meet with the Building Principal or school administrator or his or her designee to discuss the investigation, the findings of the investigation, and the actions taken to address the reported incident of bullying.

The Superintendent or designee shall investigate whether a reported incident of bullying is within the permissible scope of the District's jurisdiction and shall require that the District provide the victim with information regarding services that are available within the District and community, such as counseling, support services, and other programs. <sup>10</sup>

6. The Superintendent or designee shall use interventions to address bullying, that may include, but are not limited to, school social work services, restorative measures, social-emotional skill building, counseling, school psychological services, and community-based services.

---

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

<sup>9</sup> 105 ILCS 5/10-20.14 contains a similar requirement. See 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

<sup>10</sup> This sentence contains requirements found in 105 ILCS 5/27-23.7(d), ~~amended by P.A. 98-801 (eff. 1-1-2015)~~.

7. A reprisal or retaliation against any person who reports an act of bullying **is prohibited**. A student's act of reprisal or retaliation will be treated as *bullying* for purposes of determining any consequences or other appropriate remedial actions.
8. A student will not be punished for reporting bullying or supplying information, even if the District's investigation concludes that no bullying occurred. However, knowingly making a false accusation or providing knowingly false information will be treated as *bullying* for purposes of determining any consequences or other appropriate remedial actions.
9. The District's bullying prevention and response plan must be based on the engagement of a range of school stakeholders, including students and parents/guardians.
10. The Superintendent or designee shall post this policy on the District's ~~Internet~~ website, if any, and include it in the student handbook, and, where applicable, post it where other policies, rules, and standards of conduct are currently posted. The policy must ~~also~~ be distributed annually to parents/guardians, students, and school personnel; (including new employees when hired), and must also be provided periodically throughout the school year to students and faculty.<sup>11</sup>
11. The Superintendent or designee shall assist the Board with its evaluation and assessment of this policy's outcomes and effectiveness. This process shall include, without limitation:
  - a. The frequency of victimization;
  - b. Student, staff, and family observations of safety at a school;
  - c. Identification of areas of a school where bullying occurs;
  - d. The types of bullying utilized; and
  - e. Bystander intervention or participation.

The evaluation process may use relevant data and information that the District already collects for other purposes. The Superintendent or designee must post the information developed as a result of the policy evaluation on the District's website, or if a website is not available, the information must be provided to school administrators, Board members, school personnel, parents/guardians, and students.

12. The Superintendent or designee shall fully implement the Board policies, including without limitation, the following: <sup>12</sup>

---

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

<sup>11</sup> 105 ILCS 5/27-23.7(b)(10), amended by P.A. 100-137.

<sup>12</sup> The statute requires that the bullying policy *be consistent with* other board policies. The list of policies may be deleted and the following alternative used: "12. The District's bullying prevention plan must be consistent with other Board policies." If a policy list is included, be sure the referenced policies were adopted locally and amend the list accordingly.

The bullying statute does not identify staff member duties regarding the prevention of or response to student bullying. The following optional provision addresses staff member responsibilities and may be added as a new paragraph 13:

13. The Superintendent or designee shall fully inform staff members of the District's goal to prevent students from engaging in bullying and the measures being used to accomplish it. This includes each of the following:
  - a. Communicating the District's expectation and State law requirement that teachers and other certificated or licensed employees maintain discipline.
  - b. Establishing the expectation that staff members: (1) intervene immediately to stop a bullying incident that they witness or immediately contact building security and/or law enforcement if the incident involves a weapon or other illegal activity, (2) report bullying, whether they witness it or not, to an administrator, and (3) inform the administration of locations on school grounds where additional supervision or monitoring may be needed to prevent bullying.
  - c. Where appropriate in the staff development program, providing strategies to staff members to effectively prevent bullying and intervene when it occurs.
  - d. Establishing a process for staff members to fulfill their obligation to report alleged acts of bullying.

- a. 2:260, *Uniform Grievance Procedure*. A student may use this policy to complain about bullying.
- b. 6:60, *Curriculum Content*. Bullying prevention and character instruction is provided in all grades in accordance with State law.
- c. 6:65, *Student Social and Emotional Development*. Student social and emotional development is incorporated into the District's educational program as required by State law.
- d. 6:235, *Access to Electronic Networks*. This policy states that the use of the District's electronic networks is limited to: (1) support of education and/or research, or (2) a legitimate business use.
- e. 7:20, *Harassment of Students Prohibited*. This policy prohibits *any* person from harassing, intimidating, or bullying a student based on an identified actual or perceived characteristic (the list of characteristics in 7:20 is the same as the list in this policy).
- f. 7:185, *Teen Dating Violence Prohibited*. This policy prohibits teen dating violence on school property, at school sponsored activities, and in vehicles used for school-provided transportation.
- g. 7:190, *Student Behavior*. This policy prohibits, and provides consequences for, hazing, bullying, or other aggressive behaviors, or urging other students to engage in such conduct.
- h. 7:310, *Restrictions on Publications; Elementary Schools*. This policy prohibits students from and provides consequences for: (1) accessing and/or distributing at school any written, printed, or electronic material, including material from the Internet, that will cause substantial disruption of the proper and orderly operation and discipline of the school or school activities, and (2) creating and/or distributing written, printed, or electronic material, including photographic material and blogs, that causes substantial disruption to school operations or interferes with the rights of other students or staff members.

LEGAL REF.: 405 ILCS 49/, Children's Mental Health Act.  
 105 ILCS 5/10-20.14, 5/24-24, and 5/27-23.7.  
 23 Ill.Admin.Code §1.240 and §1.280.

CROSS REF.: 2:240 (Board Policy Development), 2:260 (Uniform Grievance Procedure), 4:170 (Safety), 5:230 (Maintaining Student Discipline), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 6:235 (Access to Electronic Networks), 7:20 (Harassment of Students Prohibited), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:285 (Food Allergy Management Program), 7:310 (Restrictions on Publications; Elementary Schools)

## Students

### Student Behavior<sup>1</sup>

The goals and objectives of this policy are to provide effective discipline practices that: (1) ensure the safety and dignity of students and staff; (2) maintain a positive, weapons-free, and drug-free learning environment; (3) keep school property and the property of others secure; (4) address the causes of a student's misbehavior and provide opportunities for all individuals involved in an incident to participate in its resolution; and (5) teach students positive behavioral skills to become independent, self-disciplined citizens in the school community and society. <sup>2</sup>

### When and Where Conduct Rules Apply <sup>3</sup>

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

<sup>1</sup> All districts must have a policy on student discipline, including school searches and bullying prevention (105 ILCS 5/10-20.14, amended by P.A. 99-456, eff. 9-15-~~2016~~); re-engagement of students returning from an exclusionary discipline or an alternative school (105 ILCS 5/10-22.6(b-25)); and corporal punishment (105 ILCS 5/24-24). See also 23 Ill.Admin.Code §1.280. See the Cross References for policies on searches and bullying. Each district must furnish a copy of the discipline policy to parents/guardians within 15 days after the beginning of the school year, or within 15 days after starting classes for a student who transfers into the district. The school board must require that each school inform its pupils of the discipline policy's contents.

School boards, along with the parent-teacher advisory committee, must annually review their pupil discipline policies, those policies' implementation, and any other factors related to the safety of their schools, students, and staff. ~~(105 ILCS 5/10-20.14(a), amended by P.A. 99-456. The parent-teacher advisory committee should meet to discuss the changes to this policy necessitated by P.A. 99-456 before the legislation's effective date.~~ For more information about the parent-teacher advisory committee, see ~~board policy~~ 2:150, *Committees*. The parent-teacher advisory committee, in cooperation with local law enforcement agencies, must develop, with the school board, a reciprocal reporting system. ~~(105 ILCS 5/10-20.14(b)).~~ See 7:190-AP3, *Guidelines for Reciprocal Reporting of Criminal Offenses Committed by Students*. School districts are encouraged to create memoranda of understanding that define law enforcement's role in schools. See 7:190-E3, *Memorandum of Understanding*.

Given the unique concerns facing school officials, school disciplinary codes are not required to be drafted as narrowly or with the same precision as criminal statutes. *Bethel Sch. Bd. v. Fraser*, ~~406 S.Ct. 315~~9478 U.S. 675 (1986).

<sup>2</sup> The goals and objectives in this policy give the board a focus for monitoring it. This list can be deleted, replaced, or modified by the board. Data on student discipline is available at: [www.isbe.net/Pages/Expulsions-Suspensions-and-Truants-by-District.aspx](http://www.isbe.net/Pages/Expulsions-Suspensions-and-Truants-by-District.aspx).

<sup>3</sup> Board policy should provide a jurisdictional statement telling students and staff the circumstances under which the district will take disciplinary action. Jurisdictional rules in board policy should generally be as broad as possible to give staff members authority to respond to unforeseen situations. Taking jurisdiction over off-campus misconduct generally survives the test of reasonableness when the misconduct has a direct nexus to the school. A countervailing interest concerns liability for off-campus student injuries, i.e., the greater the jurisdiction a district is willing to impose, the greater the scope of liability it may be assuming. Ultimately, a decision whether to discipline for off-campus misconduct requires a factual inquiry to determine the degree of nexus and impact on the school. Many decisions address disciplining a student for off-campus misconduct; for example, see: *J.S. v. Blue Mountain Sch. Dist., combined with Layshock v. Hermitage Sch. Dist.*, 650 F.3d 205 (3d Cir. 2011), *cert. denied* ~~2012 WL 1175585~~65 U.S. 1116 (2012) ~~(U.S.)~~ (absent evidence that parodies of school personnel caused, or could cause, substantial disruption, school districts may not punish out-of-school expressive conduct, even if it is lewd, indecent, or offensive speech).

Note that the law is different regarding participants in athletics and extracurricular activities. See policy 7:240, *Conduct Code for Participants in Extracurricular Activities*.

A judge may transfer a student to another school for committing stalking or non-consensual sexual contact against another student, or for aiding and abetting such an act; the parents/guardians are responsible for transportation and other costs associated with the transfer. ~~(Stalking No Contact Order Act and the Civil No Contact Order Act, 740 ILCS 21/80 and 22/213).~~ A school district is seldom notified when a transfer order is requested. When notified, school officials should immediately seek the board attorney's advice concerning available options.

A student is subject to disciplinary action for engaging in *prohibited student conduct*, as described in the section with that name below, whenever the student's conduct is reasonably related to school or school activities, including, but not limited to:

1. On, or within sight of, school grounds before, during, or after school hours or at any time;
2. Off school grounds at a school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school;
3. Traveling to or from school or a school activity, function, or event; or
4. Anywhere, if the conduct interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including, but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. <sup>4</sup>

### Prohibited Student Conduct <sup>5</sup>

The school administration is authorized to discipline students for gross disobedience or misconduct, including but not limited to:

1. Using, possessing, distributing, purchasing, or selling tobacco or nicotine materials, including without limitation, electronic cigarettes. <sup>6</sup>
2. Using, possessing, distributing, purchasing, or selling alcoholic beverages. <sup>7</sup> Students who are under the influence of an alcoholic beverage are not permitted to attend school or school functions and are treated as though they had alcohol in their possession.
3. Using, possessing, distributing, purchasing, selling, or offering for sale:
  - a. Any illegal drug or controlled substance, or cannabis (including medical cannabis, marijuana, and hashish). <sup>8</sup>
  - b. Any anabolic steroid unless it is being administered in accordance with a physician's or licensed practitioner's prescription. <sup>9</sup>

---

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

<sup>4</sup> The factual context will determine the appropriateness of taking jurisdiction. Contact the board attorney before disciplining a student for off-campus conduct. See *Doe v. Superintendent of Schools of Stoughton*, 767 N.E.2d 1054 (Mass., 2002)(suspension for off-campus commission of a felony was upheld).

<sup>5</sup> Consult the board attorney for advice on deleting or modifying any of the items in this section on prohibited student conduct.

<sup>6</sup> 105 ILCS 5/10-20.5b prohibits use of tobacco on school property. Federal law prohibits smoking within schools by anyone (Pro-Children Act of 1994, 20 U.S.C. §6081). Districts that fail to comply risk a civil penalty of up to \$1,000 per violation per day. See ~~policy~~-8:30, *Visitors to and Conduct on School Property*, for more information.

State and federal law have not yet addressed electronic cigarettes. An electronic or e-cigarette resembles a regular cigarette. It contains a battery-operated heating element that turns a liquid into a mist for inhaling. The liquid may contain nicotine. Information, albeit limited, is posted on the U.S. Food and Drug Administration website at:

[www.fda.gov/tobaccoproducts/default.htm](http://www.fda.gov/tobaccoproducts/default.htm)

[www.fda.gov/NewsEvents/PublicHealthFocus/ucm172906.htm](http://www.fda.gov/NewsEvents/PublicHealthFocus/ucm172906.htm)

[www.fda.gov/newsevents/publichealthfocus/ucm252360.htm](http://www.fda.gov/newsevents/publichealthfocus/ucm252360.htm)

<sup>7</sup> Alcoholic beverages are defined in 235 ILCS 5/1-3.01 to 3.05.

<sup>8</sup> *Controlled substance* is defined in 720 ILCS 570/102; cannabis is defined in 720 ILCS 550/3. Either spelling, *marihuana* or *marijuana*, is correct; however, *marijuana* is more common. See f/n 11 for a discussion of medical cannabis.

<sup>9</sup> *Anabolic steroid* is defined in 720 ILCS 570/102(c-1).

- c. Any performance-enhancing substance on the Illinois High School Association’s most current banned substance list unless administered in accordance with a physician’s or licensed practitioner’s prescription. **10**
- d. Any prescription drug when not prescribed for the student by a physician or licensed practitioner, or when used in a manner inconsistent with the prescription or prescribing physician’s or licensed practitioner’s instructions. The use or possession of medical cannabis, even by a student for whom medical cannabis has been prescribed, is prohibited. **11**
- e. Any inhalant, regardless of whether it contains an illegal drug or controlled substance: (a) that a student believes is, or represents to be capable of, causing intoxication, hallucination, excitement, or dulling of the brain or nervous system; or (b) about which the student engaged in behavior that would lead a reasonable person to believe that the student intended the inhalant to cause intoxication, hallucination, excitement, or dulling of the brain or nervous system. The prohibition in this section does not apply to a student’s use of asthma or other legally prescribed inhalant medications.
- f. Any substance inhaled, injected, smoked, consumed, or otherwise ingested or absorbed with the intention of causing a physiological or psychological change in the body, including without limitation, pure caffeine in tablet or powdered form. **12**
- g. **“Look-alike”** or counterfeit drugs, including a substance that is not prohibited by this policy, but one: (a) that a student believes to be, or represents to be, an illegal drug, controlled substance, or other substance that is prohibited by this policy; or (b) about which a student engaged in behavior that would lead a reasonable person to believe that the student expressly or impliedly represented to be an illegal drug, controlled substance, or other substance that is prohibited by this policy. **13**

---

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

**10** See policies 7:240, *Conduct Code for Participants in Extracurricular Activities*, and 7:300, *Extracurricular Athletics*.

**11** To legally use medical cannabis, an individual must first become a *registered qualifying patient*. The use of cannabis by a *registered qualifying patient* is permitted only in accordance with the Compassionate Use of Medical Cannabis Pilot Program. ~~(410 ILCS 130/)~~. There are many situations in which no one, even a *registered qualifying patient*, may possess or use cannabis, including in a school bus or on the grounds of any preschool, or primary or secondary school. ~~(410 ILCS 130/30(a)(2)& and (3))~~. See also [www.illinois.gov/gov/mcopp/Pages/default.aspx](http://www.illinois.gov/gov/mcopp/Pages/default.aspx). Contact the board attorney for advice concerning medical cannabis, including whether a federal or State law requires the district to accommodate a student who is a *registered qualifying patient*. See Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*; Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. §1400 *et seq.*; Rehabilitation Act of 1973, Section 504, 29 U.S.C. §794; 105 ILCS 5/14-1.01 *et seq.*, 5/14-7.02, and 5/14-7.02b; and 23 Ill.Admin.Code Part 226.

**12** The Powdered Caffeine Control and Education Act states: “No person may sell, offer for sale, give away, or provide free samples of powdered pure caffeine to any person under age 18 located within the State or to any person under age 18 making the purchase from within the State.” A limited exception to this prohibition exists for “the sale of any powdered pure caffeine product that receives explicit approval as safe and effective for its intended use under the federal Food, Drug, and Cosmetic Act or is lawfully marketed under an over-the-counter monograph issued by the United States Food and Drug Administration.” 410 ILCS 647/20, added by P.A. 99-50.

**13** *Look-alike* and *counterfeit substances* are defined in 720 ILCS 570/102(g)& and (y). This provision is broader because it would apply, for example, if a student represents a powdered vitamin to be pure caffeine – pure caffeine is prohibited on campus even though it is a legal substance. Look-alike drugs should be defined; an unpublished Ill. appellate decision in 2000 found a policy prohibiting possession of *look-alikes* had vagueness problems.

- h. Drug paraphernalia, including devices that are or can be used to: (a) ingest, inhale, or inject cannabis or controlled substances into the body; and (b) grow, process, store, or conceal cannabis or controlled substances. **14**

Students who are under the influence of any prohibited substance are not permitted to attend school or school functions and are treated as though they had the prohibited substance, as applicable, in their possession.

4. Using, possessing, controlling, or transferring a “*weapon*” as that term is defined in the **Weapons** section of this policy, or violating the **Weapons** section of this policy. **15**
5. Using or possessing an electronic paging device. Using a cellular telephone, video recording device, personal digital assistant (PDA), or other electronic device in any manner that disrupts the educational environment or violates the rights of others, including using the device to take photographs in locker rooms or bathrooms, cheat, or otherwise violate student conduct rules. Prohibited conduct specifically includes, without limitation, creating, sending, sharing, viewing, receiving, or possessing an indecent visual depiction of oneself or another person through the use of a computer, electronic communication device, or cellular phone. Unless otherwise banned under this policy or by the Building Principal, all electronic devices must be kept powered-off and out-of-sight during the regular school day unless: (a) the supervising teacher grants permission; (b) use of the device is provided in a student’s individualized education program (IEP); (c) it is used during the student’s lunch period, or (d) it is needed in an emergency that threatens the safety of students, staff, or other individuals. **16**
6. Using or possessing a laser pointer unless under a staff member’s direct supervision and in the context of instruction.
7. Disobeying rules of student conduct or directives from staff members or school officials. Examples of disobeying staff directives include refusing a District staff member’s request to stop, present school identification, or submit to a search.
8. Engaging in academic dishonesty, including cheating, intentionally plagiarizing, wrongfully giving or receiving help during an academic examination, altering report cards, and wrongfully obtaining test copies or scores.

---

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

**14** *Drug paraphernalia* is defined in 720 ILCS 600/2. Contact the board attorney for advice concerning a student who is a *registered qualifying patient*, as explained in f/n 11.

**15** This language is broader than the **Weapons** section of this policy. The **Weapons** section contains the statutorily required punishment for “a student who is determined to have brought” a weapon to school along with the statutory definition of *weapon*. ~~(105 ILCS 5/10-22.6)~~. The language in item #4 is broader because it prohibits “using, possessing, controlling, or transferring” a weapon in addition to violating the **Weapons** section. See the footnotes in the **Weapons** section for a discussion of the Firearm Concealed Carry Act’s provisions.

**16** 105 ILCS 5/10-21.10 prohibits student possession of electronic paging devices, but State law leaves to local boards the discretion whether to prohibit student possession of cellular phones. ~~(105 ILCS 5/10-20.28)~~. The misuse of camera phones can seriously invade a student’s privacy. A board wanting a sweeping prohibition may use the following alternative for item #5:

Using or possessing a cellular telephone, electronic signaling device, two-way radio, video recording device, and/or other telecommunication device, unless authorized and approved by the Building Principal.

Operating transmitters designed to jam or block wireless communications violates the federal Communications Act of 1934. ~~(47 U.S.C. §§301, 302a, & and 333)~~. Fines are as high as \$10,000 for each violation and/or imprisonment, and the device may also be seized. ~~(47 U.S.C. §§501-510)~~.

Making a video recording or live video transmission of another person without their consent in a restroom, locker room, or changing room is a Class 4 felony. ~~(720 ILCS 5/26-4)~~. A minor who distributes or disseminates an indecent visual depiction of another minor through the use of a computer or electronic communication device may be subject to adjudication as a minor in need of supervision. ~~(705 ILCS 405/3-40)~~.



9. Engaging in hazing or any kind of bullying or aggressive behavior that does physical or psychological harm to a staff person or another student, or urging other students to engage in such conduct. Prohibited conduct specifically includes, without limitation, any use of violence, intimidation, force, noise, coercion, threats, stalking, harassment, sexual harassment, public humiliation, theft or destruction of property, retaliation, hazing, bullying, bullying using a school computer or a school computer network, or other comparable conduct. **17**
10. Engaging in any sexual activity, including without limitation, offensive touching, sexual harassment, indecent exposure (including mooning), and sexual assault. This does not include the non-disruptive: (a) expression of gender or sexual orientation or preference, or (b) display of affection during non-instructional time.
11. Teen dating violence, as described in Board policy 7:185, *Teen Dating Violence Prohibited*. **18**
12. Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person's personal property. **19**
13. Entering school property or a school facility without proper authorization.
14. In the absence of a reasonable belief that an emergency exists, calling emergency responders (such as calling 911); signaling or setting off alarms or signals indicating the presence of an emergency; or indicating the presence of a bomb or explosive device on school grounds, school bus, or at any school activity.
15. Being absent without a recognized excuse; State law and School Board policy regarding truancy control will be used with chronic and habitual truants. **20**

---

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

**17** All districts must have a policy on bullying. ~~(105 ILCS 5/27-23.7(d)).~~ Policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, contains the statutory definition of *bullying*.

105 ILCS 5/10-20.14 requires boards, in consultation with their parent-teacher advisory committees and other community-based organizations, to include provisions in their student discipline policy to address aggressive behavior, including bullying. These provisions must include procedures for notifying a student's parents/guardians about his/her aggressive behavior and early intervention procedures based upon available community-based and district resources. ~~Implementing procedures must include a method for informing parents/guardians when their child or ward engaged in aggressive behavior as well as early intervention procedures based upon available community and district resources.~~ See 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

Suspending students for hazing was upheld in *Gendelman v. Glenbrook North High Sch. et al and Northfield Township Sch. et al* Dist. riet 225, 2003 WL 21209880 (N.D.Ill., 2003). This decision may have been legislatively overturned by P.A. 99-456, amending 105 ILCS 5/10-20.14.

The failure of a school official (including any administrator, teacher, counselor, support staff, or coach) to report hazing is a Class B misdemeanor. ~~(720 ILCS 5/12C-50.1).~~

A person commits a felony hate crime when, by reason of the actual or perceived race, color, creed, religion, ancestry, sexual orientation, disability, or national origin of another person, he or she commits assault or battery. ~~(720 ILCS 5/12-7.1).~~ The penalty is heightened when the offense is committed in a school or administrative facility.

720 ILCS 5/26-1 makes transmitting a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

**18** All school boards must have a policy on prohibited teen dating violence. ~~(105 ILCS 110/3.10).~~ Verify that the board adopted the policy listed and amend its title in this policy, if necessary.

**19** 720 ILCS 5/26-1(a)(3.5) makes threatening to destroy a school building or school property, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

**20** 105 ILCS 5/26-2a, 5/26-9, and 5/26-12. See policy 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*, and 7:70, *Attendance and Truancy*.

16. Being involved with any public school fraternity, sorority, or secret society, by: (a) being a member; (b) promising to join; (c) pledging to become a member; or (d) soliciting any other person to join, promise to join, or be pledged to become a member. **21**
17. Being involved in gangs or gang-related activities, including displaying gang symbols or paraphernalia. **22**
18. Violating any criminal law, including but not limited to, assault, battery, arson, theft, gambling, eavesdropping, vandalism, and hazing.
19. Making an explicit threat on an Internet website against a school employee, a student, or any school-related personnel if the Internet website through which the threat was made is a site that was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made, and the threat could be reasonably interpreted as threatening to the safety and security of the threatened individual because of his or her duties or employment status or status as a student inside the school. **23**
20. Operating an unmanned aircraft system (UAS) or drone for any purpose on school grounds or at any school event unless granted permission by the Superintendent or designee. **24**
21. Engaging in any activity, on or off campus, that interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. **25**

For purposes of this policy, the term “*possession*” includes having control, custody, or care, currently or in the past, of an object or substance, including situations in which the item is: (a) on the student’s person; (b) contained in another item belonging to, or under the control of, the student, such as in the student’s clothing, backpack, or automobile; (c) in a school’s student locker, desk, or other school property; or (d) at any location on school property or at a school-sponsored event. **26**

Efforts, including the use of positive interventions and supports, shall be made to deter students, while at school or a school-related event, from engaging in aggressive behavior that may reasonably produce physical or psychological harm to someone else. The Superintendent or designee shall ensure

---

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

**21** State law requires schools to suspend or expel any student who engages in this activity. (105 ILCS 5/31-3).

**22** See Kelly v. Beard, of Educ. of McHenry Community High Sch., ~~ool~~ Dist. 156, 2007 WL 114300 (N.D.Ill., 2007)(upheld student’s expulsion for drawing gang symbols while at school; testimony that the danger posed by gang signs and the presence of gangs at school supported the board’s insistence on strict enforcement of board policy prohibiting gang related behavior and made expulsion a proper remedy).

740 ILCS 147/15 et seq. allows a school district to bring a civil suit against a gang, gang officers, or gang members for losses it suffers due to their criminal activity.

**23**This statement of misconduct restates 105 ILCS 5/10-22.6(d-5). The following alternative provides a shorter statement but will require the administrator to check the statute before imposing discipline based on it:

Making an explicit threat on an Internet website against a school, employee, or any school-related personnel under circumstances described in Section 10-22.6(d-5) of the School Code.

**24** For more information regarding unmanned aircraft systems, see: [www.faa.gov/uas/](http://www.faa.gov/uas/).

**25** A catchall provision, e.g., this one, gives staff members authority to respond to unforeseen situations.

If the board adopts a mandatory uniform policy (see 7:165, *School Uniforms*), add the following item to the list as number 17: “Failing to comply with the mandatory uniform policy, but only after repeated attempts to secure compliance, such as conferences with parents/guardians, have been unsuccessful.”

**26** *Possession* should be defined to avoid vagueness problems.

that the parent/guardian of a student who engages in aggressive behavior is notified of the incident.<sup>27</sup> The failure to provide such notification does not limit the Board's authority to impose discipline, including suspension or expulsion, for such behavior.

No disciplinary action shall be taken against any student that is based totally or in part on the refusal of the student's parent/guardian to administer or consent to the administration of psychotropic or psychostimulant medication to the student. **28**

### Disciplinary Measures **29**

School officials shall limit the number and duration of expulsions and out-of-school suspensions to the greatest extent practicable, and, where practicable and reasonable, shall consider forms of non-exclusionary discipline before using out-of-school suspensions or expulsions.<sup>30</sup> School personnel shall not advise or encourage students to drop out voluntarily due to behavioral or academic difficulties.<sup>31</sup> Potential disciplinary measures include, without limitation, any of the following: **32**

1. Notifying parent(s)/guardian(s).
2. Disciplinary conference.
3. Withholding of privileges.
4. Temporary removal from the classroom.
5. Return of property or restitution for lost, stolen, or damaged property. **33**

---

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

<sup>27</sup> See f/n 17.

<sup>28</sup> Mandated by 105 ILCS 5/10-20.36.

**29 IMPORTANT:** The practice of suspending or expelling a student based on the number of accumulated disciplinary infractions may be illegal under 105 ILCS 5/10-22.6. This includes a system of assigning points to specific infractions and then tallying the points a student receives over a period of time to determine a disciplinary exclusion from school. Contact the board attorney before using such a system.

Before P.A. 99-456 amended 105 ILCS 5/10-22.6, courts used the following factors to determine if a board abused its discretion when it expelled a student: (1) the egregiousness of the student's conduct; (2) the record of the student's past conduct; (3) the likelihood that such conduct will affect the delivery of educational services to other students; (4) the severity of the punishment; and (5) the intent of the child. Robinson v. Oak Park, 571 N.E.2d 931, 213 Ill.App.3d (Ill.App.1st Dist., 1991); Wilson ex rel. Geiger v. Hinsdale Elementary Dist. rict., 810 NE2d 637, 349 Ill.App.3d 243 (Ill.App.2nd Dist., 2004). Whether courts will continue to use these factors is yet to be determined. The enactment of P.A. 99-456 calls into question the validity of relying on past misconduct in suspension or expulsion decisions.

Aside from procedural due process protection, students have a constitutional substantive due process right. This right protects them from an abuse of government power which "shocks the conscience." While the scope of substantive due process is very limited, it is available to students who believe they were subject to arbitrary and excessive discipline. Generally, however, school officials need not fear being found guilty of a substantive due process violation. Federal courts are loath to second-guess school officials. See Tun v. Whitticker, 398 F.3d 899 (7th Cir., 2005)(expulsion did not amount to a substantive due process violation because it fell short of the required *shocks the conscience* standard).

**30** 105 ILCS 5/10-22.6(b-5). According to subsection c-5, "[s]chool districts must make reasonable efforts to provide ongoing professional development to teachers, administrators, school board members, school resource officers, and staff on the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, and developmentally appropriate disciplinary methods that promote positive and healthy school climates." 105 ILCS 5/10-22.6(c-5).

**31** 105 ILCS 5/10-22.6(h).

**32** Most school attorneys advise against using a grade reduction as a disciplinary measure. A decision upholding such a policy is Knight v. Board of Education, 348 N.E.2d 299, 38 Ill.App.3d 603 (4th Dist. Ill.App., 1976). A decision striking one is Smith v. School City of Hobart, 811 F.Supp. 391 (N.D.Ind., 1993)(grade reduction policy requiring 9-week grades to be reduced 4% for each day of a suspension was found unconstitutional).

**33** While restitution is permitted, issuing a fine or fee as a disciplinary consequence is not permitted. (105 ILCS 5/10-22.6(i). The Parental Responsibility Law (740 ILCS 115/5) is discussed in a footnote in sample policy 7:170, *Vandalism*.

6. In-school suspension. The Building Principal or designee shall ensure that the student is properly supervised. **34**
7. After-school study or Saturday study<sup>35</sup> provided the student's parent/guardian has been notified. If transportation arrangements cannot be agreed upon, an alternative disciplinary measure must be used. The student must be supervised by the detaining teacher or the Building Principal or designee.
8. Community service with local public and nonprofit agencies that enhances community efforts to meet human, educational, environmental, or public safety needs.<sup>36</sup> The District will not provide transportation. School administration shall use this option only as an alternative to another disciplinary measure, giving the student and/or parent/guardian the choice.
9. Seizure of contraband; confiscation and temporary retention of personal property that was used to violate this policy or school disciplinary rules. **37**
10. Suspension of bus riding privileges in accordance with Board policy 7:220, *Bus Conduct*. **38**
11. Out-of-school suspension from school and all school activities in accordance with Board policy 7:200, *Suspension Procedures*.<sup>39</sup> A student who has been suspended may also be restricted from being on school grounds and at school activities. **40**
12. Expulsion from school and all school activities for a definite time period not to exceed 2 calendar years in accordance with Board policy 7:210, *Expulsion Procedures*.<sup>41</sup> A student who has been expelled may also be restricted from being on school grounds and at school activities. **42**
13. Transfer to an alternative program if the student is expelled or otherwise qualifies for the transfer under State law. The transfer shall be in the manner provided in Article 13A or 13B of the School Code. **43**

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

**34** State law does not address in-school suspensions. Providing an educational program during in-school suspensions will help distinguish them from exclusionary suspensions.

**35** Teachers may not be required to teach on Saturdays. ~~(105 ILCS 5/24-2).~~

**36** See *Herndon v. Chapel Hill-Carrboro City Bd.*, 89 F.3d 174 (4th Cir. 1996)(upheld policy requiring students to complete community service in order to graduate).

**37** Consult the board attorney for advice concerning confiscated devices. There is no binding Ill. court decision regarding school personnel seizing and retaining a student's property. The Supreme Court of Arkansas held that a teacher and principal did not violate a student's state or federal rights when they confiscated and retained a student's cell phone for ~~two~~ weeks for violating school rules on cell phones. *Koch v. Adams*, 361 S.W.3d 817 (Ark. 2010).

**38** 105 ILCS 5/10-22.6(b) ~~& and~~ (b-30), amended by P.A. 99-456, eff. 9-15-~~20~~16.

**39** A suspension may be imposed in only limited situations that vary according to the suspension's length. ~~(105 ILCS 5/10-22.6(b-15)). This is explained in sample board policy 7:200, *Suspension Procedures*, and its footnotes.~~

**40** This sentence is optional. A board may make this mandatory by replacing "may also be" with "shall also be."

**41** An expulsion may be imposed in only limited situations. ~~(105 ILCS 5/10-22.6(b-20)). This is explained in sample board policy 7:210, *Expulsion Procedures*, and its footnotes.~~

105 ILCS 5/10-22.6(d) permits expulsion for a definite period of time not to exceed two calendar years. School officials must document whether other interventions were attempted or whether it was determined that there were no other appropriate and available interventions.

**42** This sentence is optional. A board may make this mandatory by replacing "may also be" with "shall also be."

**43** 105 ILCS 5/10-22.6(a) ~~& and~~ (b). Subsection 10-22.6(b) uses the phrase "is suspended in excess of 20 school days" even though a 20-consecutive day suspension should be treated as an expulsion. *Goss v. Lopez*, 419 U.S. 565 ~~95 S.Ct. 729~~ (1975). An alternative program is probably available to a student who is suspended for 11 to 20 consecutive days because that student is technically expelled and, as such, qualifies under subsection (a) of Section 10-22.6. Contact the board attorney if the district wants to interpret the statute as referring to *cumulative* school days so that it can transfer a student to an alternative program upon his or her suspension in excess of 20 *cumulative* school days.

14. Notifying juvenile authorities or other law enforcement whenever the conduct involves criminal activity, including but not limited to, illegal drugs (controlled substances), “look-alikes,” alcohol, or weapons or in other circumstances as authorized by the reciprocal reporting agreement between the District and local law enforcement agencies.

The above list of disciplinary measures is a range of options that will not always be applicable in every case. In some circumstances, it may not be possible to avoid suspending or expelling a student because behavioral interventions, other than a suspension and expulsion, will not be appropriate and available, and the only reasonable and practical way to resolve the threat and/or address the disruption is a suspension or expulsion.<sup>44</sup>

Corporal punishment is prohibited. *Corporal punishment* is defined as slapping, paddling, or prolonged maintenance of students in physically painful positions, or intentional infliction of bodily harm. Corporal punishment does not include reasonable force as needed to maintain safety for students, staff, or other persons, or for the purpose of self-defense or defense of property. **45 46**

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

Contact the board attorney regarding the necessary due process procedures before imposing a disciplinary transfer to an alternative school. The court in Leak v. Rich Twp High Sch. ~~001~~ Dist. 227 (2015 IL App. 143202)(~~Ill. App. 1st Dist. 4~~, 2015), held that placement in an alternative school is tantamount to an expulsion. Thus, according to dicta in this decision, districts must follow expulsion procedures before a student is transferred to an alternative school. Schools may still reach agreements with parents/guardians to transfer students to such schools without completing the expulsion procedures.

The alternative program may not deny the transfer on the basis of the suspension or expulsion, except in cases in which the transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

**44 Note:** Districts that receive early childhood block grant funding (authorized by 105 ILCS 5/1C-2 of the School Code) are prohibited from expelling children from their early childhood programs. 105 ILCS 5/2-3.71(a)(7) and 105 ILCS 5/10-22.6, amended by P.A. 100-105, eff. 1-1-18. A district may, however, transition a child to a new program if: (1) it has documented evidence that all available interventions and supports recommended by a qualified professional have been exhausted; (2) the program determines that transitioning a child is necessary for the well-being of the child or his or her peers and staff; and (3) the current and pending programs create a transition plan for the child with parent or legal guardian permission. 105 ILCS 5/2-3.71(a)(7)(C). A district may temporarily remove a child from attendance in the group setting in the case of a serious safety threat to a child or others, or in the case of possession of a weapon as described in 105 ILCS 5/10-22.6(d), but it must then begin the process of documenting interventions and supports as outlined in the law. 105 ILCS 5/2-3.71(a)(7)(E). As of PRESS Issue 96, the Ill. State Board of Education has not yet adopted rules to implement these new requirements. Compliance with this law does not relieve a district of its obligations to also comply with the Individuals with Disabilities Education Improvement Act of 2004 when disciplining students with disabilities. For further information, see sample policy 7:230, *Misconduct by Students with Disabilities*. For districts that receive early childhood block grant funding, add the following:

Students enrolled in the District’s State-funded preschool program(s) may be temporarily removed or transitioned to a new program in accordance with federal and State law. State law prohibits the expulsion of students from the program(s).

If this language is inserted, add 105 ILCS 5/2-3.71(a)(7) to the Legal References for this policy.

**45** This paragraph paraphrases 105 ILCS 5/24-24.

**46** Staff members may *not* use isolated time out or physical restraint unless their use is authorized by policy and administrative procedure. ~~105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §1.280(c) and 1.285). See 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*. The sample policy prohibits the use of isolated time out and physical restraint by not specifically permitting their use. State statute and ISBE rules contain complex restrictions on the use of isolated time out and physical restraints. 105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §1.280(c) and 1.285). According to the ISBE rule, isolated time out and physical restraints are prohibited unless a board authorizes their use in a policy containing the numerous components identified in the rule. A board that wants to authorize the use of isolated time out and physical restraints should insert the paragraph below. To comply with ISBE’s rule, a board must also incorporate by reference the procedure developed by the superintendent, i.e., 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*. By doing this, the procedure becomes part of the policy.~~

School staff members shall not use isolated time out and physical restraints other than as permitted in Section 10-20.33 of the School Code, State Board of Education rules, and procedures developed by the Superintendent.

Neither isolated time out nor physical restraints shall be used to discipline or punish a student.

**If the above option is used**, add the following before the Legal References on the final page: “Incorporated by Reference: 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*.”

## Weapons 47

A student who is determined to have brought one of the following objects to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school shall be expelled for a period of at least one calendar year but not more than two calendar years:

1. A *firearm*, meaning any gun, rifle, shotgun, or weapon as defined by Section 921 of Title 18 of the United States Code (18 U.S.C. § 921), firearm as defined in Section 1.1 of the Firearm Owners Identification Card Act (430 ILCS 65/), or firearm as defined in Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1).
2. A knife, brass knuckles, or other knuckle weapon regardless of its composition, a billy club, or any other object if used or attempted to be used to cause bodily harm, including “*look alikes*” of any *firearm* as defined above.

The expulsion requirement under either paragraph one or two above may be modified by the Superintendent, and the Superintendent’s determination may be modified by the Board on a case-by-case basis. The Superintendent or designee may grant an exception to this policy, upon the prior request of an adult supervisor, for students in theatre, cooking, ROTC, martial arts, and similar programs, whether or not school-sponsored, provided the item is not equipped, nor intended, to do bodily harm. 48

This policy’s prohibitions concerning weapons apply regardless of whether: (1) a student is licensed to carry a concealed firearm, or (2) the Board permits visitors, who are licensed to carry a concealed firearm, to store a firearm in a locked vehicle in a school parking area. 49

## Re-Engagement of Returning Students 50

The Superintendent or designee shall maintain a process to facilitate the re-engagement of students who are returning from an out-of-school suspension, expulsion, or an alternative school setting. The goal of re-engagement shall be to support the student’s ability to be successful in school following a

---

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

47 This section paraphrases 105 ILCS 5/10-22.6(d) and contains the statutorily required punishment for bringing a weapon to school along with the statutory definition of *weapon*. When preparing for a due process hearing, a principal needs to use the applicable State and federal law definitions of *firearm* – not just the School Code.

While subsection 105 ILCS 5/10-22.6(b-10), added by P.A. 99-456, explicitly forbids zero tolerance policies, it provides an exception for those zero tolerance policies established by State or federal law, which includes weapons in school. Section 10-22.6(d) provides that a student who brings a weapon to school, as defined in the section, “shall be expelled for a period not less than one year,” unless modified by the superintendent or board. The federal Gun-Free Schools Act (20 U.S.C. §~~7151-7961~~ 7961 et seq.) provides for at least a one year expulsion for students who bring firearms to school. ~~Although As directed by 20 U.S.C. §7961(b)(1), 105 ILCS 5/10-22.6(d) subsection 10-22.6(d) allows~~ the superintendent and the board ~~may~~ may modify that consequence; ~~however,~~ the superintendent/board may decline to exercise that discretion and ~~instead~~ impose the maximum penalty authorized by law. Analyzing the student’s circumstances on a case-by-case basis may avoid a judicial finding that an expulsion is too severe. See Washington v. Smith, ~~618 N.E.2d 564~~ 248 Ill.App.3d 534 (1st Dist. Ill.App. 1, 1993).

Item #4 in the **Prohibited Student Conduct** section is broader because it prohibits “using, possessing, controlling, or transferring” a weapon in addition to violating the **Weapons** section.

48 Optional.

49 The Firearm Concealed Carry Act permits a properly licensed individual to carry a concealed firearm within a vehicle into a school parking area and store it a locked vehicle out of plain view. ~~(430 ILCS 66/65(b)).~~ The Federal Gun-Free Schools Act has a similar provision. ~~(20 U.S.C. §7961+51(g)).~~ The School Code, however, contains no similar exception to the ban on firearms at schools. Contact the board attorney before permitting students to store their firearms in their vehicle’s trunk while parked at school.

50 Required by 105 ILCS 5/10-22.6(b-25). See 7:190-AP8, *Student Re-Engagement Guidelines*.

period of exclusionary discipline and shall include the opportunity for students who have been suspended to complete or make up work for equivalent academic credit. 51

### Required Notices

A school staff member shall immediately notify the office of the Building Principal in the event that he or she: (1) observes any person in possession of a firearm on or around school grounds; however, such action may be delayed if immediate notice would endanger students under his or her supervision, (2) observes or has reason to suspect that any person on school grounds is or was involved in a drug-related incident, or (3) observes a battery committed against any staff member.<sup>52</sup> Upon receiving such a report, the Building Principal or designee shall immediately notify the local law enforcement agency, State Police, and any involved student's parent/guardian.<sup>53</sup> "School grounds" includes modes of transportation to school activities and any public way within 1000 feet of the school, as well as school property itself.

### Delegation of Authority

Each teacher, and any other school personnel when students are under his or her charge, is authorized to impose any disciplinary measure, other than suspension, expulsion, corporal punishment, or in-school suspension, that is appropriate and in accordance with the policies and rules on student discipline. Teachers, other certificated [licensed] educational employees, and other persons providing a related service for or with respect to a student, may use reasonable force as needed to maintain safety for other students, school personnel, or other persons, or for the purpose of self-defense or defense of property. Teachers may temporarily remove students from a classroom for disruptive behavior. 54

The Superintendent, Building Principal, Assistant Building Principal, or Dean of Students is authorized to impose the same disciplinary measures as teachers and may suspend students guilty of

---

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

<sup>51</sup> A goal for re-engagement is optional. Schools must permit students who were suspended to make-up work for equivalent academic credit. ~~105 ILCS 5/10-22.6(b-30).~~

<sup>52</sup> 105 ILCS 5/10-27.1A, 5/10-27.1B, and 5/10-21.7. *School grounds* includes the real property comprising any school, any conveyance used to transport students to school or a school-related activity, and any public way within 1,000 feet of any school ground. To satisfy the reporting requirement, ISBE created the School Incident Reporting System (SIRS), a web-based application on IWAS for schools to report incidents electronically. Reporting on SIRS does not satisfy the requirement to report incidents to local law enforcement authorities.

<sup>53</sup> *Id.* State law imposes this duty to report firearm possession only on school officials; this duty may be also imposed on volunteers and community members. Only staff members, however, are vulnerable to committing a petty offense for their failure to report, and only staff members are protected from civil or criminal liability that might arise as a result of making a report (although the liability potential for anyone making a report is remote).

The building principal must notify the student's parents/guardians only when the alleged offense is firearm possession. The policy expands this notification duty; a board disinclined to do this should substitute the following sentence:

Upon receiving such a report, the Building Principal or designee shall immediately notify the applicable local law enforcement agency, State Police, and, if a student is reportedly in possession of a firearm, also the student's parents/guardians.

<sup>54</sup> 105 ILCS 5/24-24 and 23 Ill.Admin.Code §1.280 requires: (1) teachers and other certificated [licensed] employees (except for individuals employed as paraprofessionals) to maintain discipline; and (2) the district to have a policy on discipline that provides that:

[A] teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, school personnel or persons or for the purpose of self defense or the defense of property, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and shall include provisions which provide due process to students. The policy shall not include slapping, paddling or prolonged maintenance of students in physically painful positions nor shall it include the intentional infliction of bodily harm. 105 ILCS 5/24-24.

See also 23 Ill.Admin.Code §1.280.

gross disobedience or misconduct from school (including all school functions) and from riding the school bus, up to ten consecutive school days, provided the appropriate procedures are followed.<sup>55</sup> The Board may suspend a student from riding the bus in excess of ten school days for safety reasons. <sup>56</sup>

### Student Handbook

The Superintendent, with input from the parent-teacher advisory committee,<sup>57</sup> shall prepare disciplinary rules implementing the District's disciplinary policies. These disciplinary rules shall be presented annually to the Board for its review and approval.

A student handbook, including the District disciplinary policies and rules, shall be distributed to the students' parents/guardians within 15 days of the beginning of the school year or a student's enrollment.

LEGAL REF.: Gun-Free Schools Act, 20 U.S.C. §~~7961451~~ et seq.  
Pro-Children Act of 1994, 20 U.S.C. §6081.  
410 ILCS 130/, Compassionate Use of Medical Cannabis Pilot Program.  
410 ILCS 647/, Powdered Caffeine Control and Education Act.  
430 ILCS 66/, Firearm Concealed Carry Act.  
105 ILCS 5/10-20.5b, 5/10-20.14, 5/10-20.28, 5/10-20.36, 5/10-21.7, 5/10-21.10,  
5/10-22.6, 5/10-27.1A, 5/10-27.1B, 5/24-24, 5/26-12, 5/27-23.7, 5/31-3, and  
110/3.10.  
23 Ill.Admin.Code §1.280.

CROSS REF.: 2:150 (Committees), 2:240 (Board Policy Development), 5:230 (Maintaining Student Discipline), 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 7:70 (Attendance and Truancy), 7:130 (Student Rights and Responsibilities), 7:140 (Search and Seizure), 7:150 (Agency and Police Interviews), 7:160 (Student Appearance), 7:170 (Vandalism), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment ), 7:185 (Teen Dating Violence Prohibited), 7:200 (Suspension Procedures), 7:210 (Expulsion Procedures), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:270 (Administering Medicines to Students), 7:310 (Restrictions on Publications; Elementary Schools), 8:30 (Visitors to and Conduct on School Property)

---

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

<sup>55</sup> Required by 105 ILCS 5/10-22.6(b).

<sup>56</sup> Id.

<sup>57</sup> The board must establish and maintain a parent-teacher advisory committee to develop guidelines on student discipline. See ~~policy-~~2:150, *Committees*. This policy's dissemination requirements are from 105 ILCS 5/10-20.14.

A comprehensive student handbook can provide notice of the school's conduct rules, extracurricular and athletic participation requirements, and other important information. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material—~~It is called,~~ Online Model Student Handbook (MSH), ~~and is described at:~~ [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).



## Students

### Student Support Services 1

The following student support services may be provided by the School District:<sup>2</sup>

1. Health services supervised by a qualified school nurse.<sup>3</sup> The Superintendent or designee may implement procedures to further a healthy school environment and prevent or reduce the spread of disease.
2. Educational and psychological testing services and the services of a school psychologist<sup>4</sup> as needed. In all cases, written permission to administer a psychological examination must be obtained from a student's parent(s)/guardian(s). The results will be given to the parent(s)/guardian(s), with interpretation, as well as to the appropriate professional staff.

---

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

<sup>1</sup> State or federal law controls this policy's content.

<sup>2</sup> All districts are required to conduct a comprehensive needs assessment to determine the scope of student personnel services needs. ~~23 Ill.Admin.Code §1.420(q)~~.

P.A. 95-558 created the Ensuring Success in School Task Force. This task force developed recommendations for policies, procedures, and protocols for school boards to adopt to address the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence. The intent of the recommendations is to ensure these student populations' ability to: (1) stay in school, (2) stay safe at school and (3) successfully complete their education. A copy of this report is ~~available~~—at: [povertylaw.org/advocacy/women/pubs/essa-task-force-report](http://povertylaw.org/advocacy/women/pubs/essa-task-force-report). School boards and superintendents may want to create their own study groups to discuss implementation of the task force's recommendations for policies, procedures and protocols.

<sup>3</sup> School districts may employ noncertificated/non-professional-educator-licensed *registered professional nurses* to perform professional nursing services. ~~105 ILCS 5/10-22.23; 23 Ill.Admin.Code §1.760(c)~~. A *registered professional nurse* means any nurse who is licensed to practice professional nursing in Illinois under the Nurse Practice Act (225 ILCS 65/) and whose license is active and in good standing with the Ill. Dept. of Financial and Professional Regulation. ~~23 Ill.Admin.Code §1.760(b)~~.

A *school nurse* means any registered professional nurse who also holds a professional educator license endorsed for school support services in school nursing, or any registered professional nurse who does not hold the professional educator license but was employed in the school district of current employment before 7-1-76. ~~23 Ill.Admin.Code §1.760(c)~~.

105 ILCS 5/10-22.23 provides that any nurse first employed on or after 7-1-76, whose duties require teaching or the exercise of instructional judgment or educational evaluation of students, must be ~~certificated~~/licensed under ~~Section 21-25~~ (105 ILCS 5/21-25). However, that ~~certification~~/licensure Section ~~5-21-25 of the School Code~~ was repealed by P.A. 98-413, eff. 8-16-13.

A school nurse may ~~be an educator licensed under~~ hold a Professional Educator License with a school support personnel endorsement. ~~105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§ 1.760(c), 23.120, 25.245~~. An individual who fails to meet one or more requirements for this endorsement may seek an educator license with stipulations endorsed for provisional educator. ~~105 ILCS 5/21B-20; 23 Ill.Admin.Code §25.245~~.

<sup>4</sup> School psychologists hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§ 1.760(a), 23.130, 25.235. An individual who fails to meet one or more requirements for this endorsement may seek an educator license with stipulations endorsed for provisional educator. 105 ILCS 5/21B-20; 23 Ill.Admin.Code §25.235.

3. The services of a school social worker.<sup>5</sup> A student's parent(s)/guardian(s) must consent to regular or continuing services from a social worker.
4. Guidance and school counseling<sup>6</sup> services.
5. A liaison to facilitate the enrollment and transfer of records of students in the legal custody of the Illinois Department of Children and Family Services when enrolling in or changing schools.<sup>7</sup>

The Superintendent or designee shall develop protocols for responding to students with social, emotional, or mental health problems that impact learning ability.<sup>8</sup> The District, however, assumes no liability for preventing, identifying, or treating such problems.

This policy shall be implemented in a manner consistent with State and federal laws, including the Individuals with Disabilities Education Act, 42 U.S.C. §12101 et seq.

LEGAL REF.: 405 ILCS 49/, Children's Mental Health Act of 2003.  
740 ILCS 110/, Mental Health and Developmental Disabilities Confidentiality Act.  
105 ILCS 5/10-20.58.

CROSS REF.: 6:65 (Student Social and Emotional Development), 6:270 (Guidance and Counseling Program), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:280 (Communicable and Chronic Infectious Diseases), 7:340 (Student Records)

---

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

<sup>5</sup> A school social worker means a social worker who has graduated from an accredited graduate school of social work and has such additional qualifications as may be required by ISBE and who holds a Professional Educator License with a school support personnel endorsement for school social work per 105 ILCS 5/21B-25. 105 ILCS 5/14-1.09a. See 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§ 1.760(a), 23.140, 25.215. An individual who fails to meet one or more requirements for this endorsement may seek an educator license with stipulations endorsed for provisional educator. 105 ILCS 5/21B-20; 23 Ill.Admin.Code §25.215. School social workers may not provide services outside of their district employment to any student(s) attending school in the district. Id., amended by P.A. 100-356.

<sup>6</sup> School counselors hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§ 1.760(a), 23.110, 25.255. An individual who fails to meet one or more requirements for this endorsement may seek an educator license with stipulations endorsed for provisional educator. 105 ILCS 5/21B-20; 23 Ill.Admin.Code §25.225.

In contrast, professional counselors and professional counseling practice in Illinois are governed by the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act and its implementing regulations. 225 ILCS 107/; 68 Ill.Admin.Code Part 1375. The Mental Health and Developmental Disabilities Code, 405 ILCS 5/, amended by P.A. 100-196, eff. 1-1-18, provides that minors 12 years of age or older may request and receive up to eight 90-minute sessions (previously five 45-minute sessions) of professional counseling services or psychotherapy (provided by a clinical psychologist) without the consent of the minor's parent, guardian, or person in loco parentis. 405 ILCS 5/3-501(a). Most school districts do not regularly provide professional counseling or clinical psychological services to students. Instead, most districts provide school counseling or school psychological services to students, and Illinois law does not specify any limits on the number of school counseling or school psychological sessions which a minor may have before obtaining parent/guardian permission. If your district seeks to regularly provide professional counseling or clinical psychological services to students, consult with your board attorney about potential changes to board policies and administrative procedures, as well as collective bargaining issues.

<sup>7</sup> Optional. 105 ILCS 5/10-20.58, added by P.A. 99-781, allows a liaison. Be sure this policy is consistent with policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*. See f/n 13 in 7:50, *School Admissions and Student Transfers To and From Non-District Schools*, for liaison responsibilities and requirements.

<sup>8</sup> Required by the Children's Mental Health Act of 2003, 405 ILCS 49/15.

## Students

### Exemption from Physical Education 1

In order to be excused from participation in physical education, a student must present an appropriate excuse from his or her parent/guardian or from a person licensed under the Medical Practice Act.<sup>2</sup> The excuse may be based on medical or religious prohibitions. An excuse because of medical reasons must include a signed statement from a person licensed under the Medical Practice Act that corroborates the medical reason for the request. An excuse based on religious reasons must include a signed statement from a member of the clergy that corroborates the religious reason for the request.<sup>3</sup>

Special activities in physical education will be provided for a student whose physical or emotional condition, as determined by a person licensed under the Medical Practice Act, prevents his or her participation in the physical education course.<sup>4</sup>

State law prohibits the Board from honoring parental excuses based upon a student's participation in athletic training, activities, or competitions conducted outside the auspices of the School District.<sup>5</sup>

A student who is eligible for special education may be excused from physical education courses in either of the following situations:<sup>6</sup>

1. He or she (a) is in grades 3-12, (b) his or her IEP requires that special education support and services be provided during physical education time, and (c) the parent/guardian agrees or the IEP team makes the determination; or
2. He or she (a) has an IEP, (b) is participating in an adaptive athletic program outside of the school setting, and (c) the parent/guardian documents the student's participation as required by the Superintendent or designee.

A student requiring adapted physical education must receive that service in accordance with his or her Individualized Educational Program/Plan (IEP).<sup>7</sup>

A student in grades 9-12, unless otherwise stated, may submit a written request to the Building Principal to be excused from physical education courses for the reasons stated in 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students*.<sup>8</sup>

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

<sup>1</sup> An ISBE rule requires boards to have a policy defining the types of parental excuses that will be accepted in order for a student to be exempted from P.E. (~~23 Ill.Admin.Code §1.425(e), (added at 40 Ill. Reg. 2990)~~). State or federal law controls this policy's content.

For elementary districts, delete ~~6:310, High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students~~ from the cross references of this policy.

<sup>2</sup> Medical Practice Act is found in 225 ILCS 60/.

<sup>3</sup> Required by 23 Ill.Admin.Code §1.425(e)(3). School boards must identify any evidence/support they will require for excuses they will deem *appropriate*. Before the board adopts this policy, it should have a conversation with the superintendent to discuss and review and/or amend the sample reasons for excusal offered in this policy. Topics for discussion include determining whether (a) the sample reasons are sufficient, (b) more reasons are needed, and/or (c) the sample reasons should be amended. These conversations should be based upon the community's needs.

<sup>4</sup> Required by 105 ILCS 5/27-6, amended by P.A. 100-465, and 23 Ill.Admin.Code §1.425(d).

<sup>5</sup> 105 ILCS 5/27-6(b); 23 Ill.Admin.Code §1.425(e)(2). See ~~policy~~ 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students* for a list of categories of students in grades 9-12 who may be excused from P.E. due to participation in school district athletic training, activities, or competitions.

<sup>6</sup> 105 ILCS 5/27-6(b).

<sup>7</sup> 105 ILCS 5/27-6(b).

Students in grades 7 and 8 may submit a written request to the Building Principal to be excused from physical education courses because of his or her ongoing participation in an interscholastic or extracurricular athletic program.<sup>9</sup> The Building Principal will evaluate requests on a case-by-case basis.

The Superintendent or designee shall maintain records showing that the criteria set forth in this policy were applied to the student's individual circumstances, as appropriate. **10**

LEGAL REF.: 105 ILCS 5/27-6.  
225 ILCS 60/, Medical Practice Act.  
23 Ill.Admin.Code §1.420(p) and §1.425(d), (e), (f).

CROSS REF.: 6:60 (Curriculum Content), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students)

---

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

<sup>8</sup> 105 5/27-6, amended by P.A. 100-465. Delete this sentence for elementary school districts.

<sup>9</sup> 105 5/27-6, amended by P.A. 100-465. Delete this paragraph for high school districts. Prior to P.A. 100-465, the statute only allowed students in grades 11 and 12 to be excused from P.E. "for ongoing participation in an interscholastic athletic program." 105 ILCS 5/27-6(b)(1).105 ILCS 5/27-6(b), amended by P.A. 100-465, now states "on a case-by-case basis, excuse pupils in grades 7 through 12 who participate in an interscholastic or extracurricular athletic program." It does not require such participation to be *ongoing*. Common sense, however, would allow the exemption to continue only until the end of the grading period during which the athletic program is active.

State law does not define *interscholastic athletic program* or *extracurricular athletic program*; however, 105 ILCS 5/22-80 defines *interscholastic athletic activity* as "any organized school-sponsored or school-sanctioned activity for students, generally outside of school instructional hours, under the direction of a coach, athletic director, or band leader, including, but not limited to, baseball, basketball, cheerleading, cross country track, fencing, field hockey, football, golf, gymnastics, ice hockey, lacrosse, marching band, rugby, soccer, skating, softball, swimming and diving, tennis, track (indoor and outdoor), ultimate Frisbee, volleyball, water polo, and wrestling."

For elementary school boards that want to explain the meaning of *interscholastic or extracurricular athletic program*, insert the following option:

Interscholastic or extracurricular athletic programs are organized school-sponsored or school-sanctioned activities for students that are not part of the curriculum, not graded, not for credit, generally take place outside of school instructional hours, and under the direction of a coach, athletic director, or band leader.

<sup>10</sup> 23 Ill.Admin.Code §1.425(f). Districts must maintain records showing that the criteria set forth in 105 ILCS 5/27-6, amended by P.A. 100-465, was applied to the student's individual circumstances.

## Students

### Administering Medicines to Students <sup>1</sup>

Students should not take medication during school hours or during school-related activities unless it is necessary for a student's health and well-being. When a student's licensed health care provider and parent/guardian believe that it is necessary for the student to take a medication during school hours or school-related activities, the parent/guardian must request that the school dispense the medication to the child and otherwise follow the District's procedures on dispensing medication.

No School District employee shall administer to any student, or supervise a student's self-administration of, any prescription or non-prescription medication until a completed and signed "*School Medication Authorization Form*"<sup>2</sup> is submitted by the student's parent/guardian. No student shall possess or consume any prescription or non-prescription medication on school grounds or at a school-related function other than as provided for in this policy and its implementing procedures.

Nothing in this policy shall prohibit any school employee from providing emergency assistance to students, including administering medication.

The Building Principal shall include this policy in the Student Handbook and shall provide a copy to the parents/guardians of students.<sup>2</sup>

### Self-Administration of Medication <sup>3</sup>

A student may possess an epinephrine auto-injector, e.g., EpiPen®, and/or asthma medication prescribed for use at the student's discretion, provided the student's parent/guardian has completed and signed a *School Medication Authorization Form*. The School District shall incur no liability, except for willful and wanton conduct, as a result of any injury arising from a student's self-administration of medication or epinephrine auto-injector or the storage of any medication by school personnel.<sup>4</sup> A student's parent/guardian must indemnify and hold harmless the School District and its employees and agents, against any claims, except a claim based on willful and wanton conduct,

---

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

<sup>1</sup> All districts must have a policy for administering medication. (105 ILCS 5/10-20.14b). State law prohibits school boards from requiring that teachers and other non-administrative school employees administer medication to students; exceptions are certificated school nurses and non-certificated registered professional nurses. (105 ILCS 5/10-22.21b).

<sup>2</sup> Each district must inform students (e.g., through homeroom discussion or loudspeaker announcement) about, and distribute to their parents/guardians, the district's policy, guidelines, and forms on administering medicines within 15 days after the beginning of each school year, or within 15 days after starting classes for a student who transfers into the district. (105 ILCS 5/10-20.14b). A comprehensive Student Handbook can provide notice to parents and students of the school's rules, extracurricular and athletic participation requirements, and other important information. The Handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. [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.](http://www.ilprincipals.org/resources/model-student-handbook)

<sup>3</sup> 105 ILCS 5/22-30, requires school districts to allow students to *self-administer* their prescribed asthma medication and an epinephrine auto-injector as described. *Self-carry* means a student's ability to carry his or her prescribed asthma medication or epinephrine auto-injector. *Self-administer* and *self-administration* mean that a student may use these two medications at his or her discretion: (1) while in school, (2) while at a school sponsored activity, (3) while under the supervision of school personnel, or (4) before or after normal school activities, such as while in before-school or after-school care on school-operated property.

<sup>4</sup> 105 ILCS 5/22-30(c) requires this information to be in a notification to parents.

arising out of a student's self-administration of an epinephrine auto-injector and/or medication, or the storage of any medication by school personnel.<sup>5</sup>

### School District Supply of Undesignated Epinephrine Auto-Injectors <sup>6</sup>

The Superintendent or designee shall implement Section 22-30(f) of the School Code and maintain a supply of undesignated epinephrine auto-injectors in the name of the District and provide or administer them as necessary according to State law. *Undesignated epinephrine auto-injector* means an epinephrine auto-injector prescribed in the name of the District or one of its schools. A school nurse or trained personnel, as defined in State law,<sup>7</sup> may administer an undesignated epinephrine auto-injector to a person when they, in good faith, believe a person is having an anaphylactic reaction. Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law.<sup>8</sup>

---

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

<sup>5</sup> 105 ILCS 5/22-30(c) requires parents/guardians to sign a statement: (1) acknowledging the statement from f/n 4 above, and (2) that they must indemnify and hold harmless the school district and its employees and agents against any claims, except a claim based on willful and wanton conduct, arising out of the self-administration of medication by the student or the storage of the medication by school personnel. There are several methods to obtain a parent/guardian's signature for this purpose, e.g., receipt of handbook signature, or see 7:270 E, *School Medication Authorization Form*. Discuss with the board attorney the method that works best for the district.

<sup>6</sup> Optional. A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30, amended by P.A. 99-711, ~~eff. 1-1-17~~. The law permits a district to maintain a supply of undesignated epinephrine auto-injectors in any secure location that is accessible before, during, and after school where an allergic person is most at risk, including, but not limited to, classrooms and lunchrooms, and use them when necessary. The P.A. 99-711 amendment requiring accessibility before, during, and after school does not address the logistical issues that classrooms are typically locked before and after school. Consult the board attorney about the implementation issues with this new phrase in the law.

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated epinephrine auto-injectors and implement a plan for their use, and then not doing it may be fraught with legal liabilities. Also fraught with legal liabilities is if the district is providing them, not having them accessible before, during, and after school where an allergic person is most at risk as required by P.A. 99-711, ~~eff. 1-1-17~~. See In re: Estate of Stewart v. Oswego Comm. Unit. Sch. Dist. No. 308, 406 Ill.Dec. 345 — N.E. 3d — (Ill. App. 2, 2nd Dist. 2016)(denying tort immunity to district, finding its response to a student's asthma attack was *willful and wanton* (which district disputed as a possible heart attack); In re Estate of Stewart, 412 Ill.Dec. 914 (Ill. 2017)(school district's appeal denied).

The superintendent is given broad authority to implement this section; however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of undesignated epinephrine auto-injectors in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

<sup>7</sup> State law defines *trained personnel* as any school employee or volunteer personnel authorized in Sections 10-22.34, 10-22.34a, and 10-22.34b of this Code who has completed training to recognize and respond to anaphylaxis, ~~(105 ILCS 5/22-30(a))~~. ISBE must develop the training curriculum for trained personnel, and it may be conducted online or in person, ~~(Id. at (h) and 23 Ill.Admin.Code §1.540(e)(3))~~. P.A. 99-480 did not amend the trained personnel to include recognition and response to an opioid overdose. However, 105 ILCS 5/22-30(h-5), amended by P.A. 99-480 and 23 Ill.Admin.Code §1.540(e)(4) list the training curriculum requirements to recognize and respond to an opioid overdose.

<sup>8</sup> 23 Ill.Admin.Code §1.540(e)(7)&(8).

### School District Supply of Undesignated Opioid Antagonists<sup>9</sup>

The Superintendent or designee shall implement Section 22-30(f) of the School Code and maintain a supply of undesignated opioid antagonists in the name of the District and provide or administer them as necessary according to State law. *Opioid antagonist* means a drug that binds to opioid receptors and blocks or inhibits the effect of opioids acting on those receptors, including, but not limited to, naloxone hydrochloride or any other similarly acting drug approved by the U.S. Food and Drug Administration. *Undesignated opioid antagonist* is not defined by the School Code; for purposes of this policy it means an opioid antagonist prescribed in the name of the District or one of its schools. A school nurse or trained personnel,<sup>10</sup> as defined in State law, may administer an undesignated opioid antagonist to a person when they, in good faith, believe a person is having an opioid overdose. Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law.<sup>11</sup> On or after June 1, 2018, see the website for the Ill. Dept. of Human Services for information about opioid prevention, abuse, public awareness, and a toll-free number to provide information and referral services for persons with questions concerning substance abuse treatment.<sup>12</sup>

### Void Policy; Disclaimer<sup>13</sup>

The **School District Supply of Undesignated Epinephrine Auto-Injectors** section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for undesignated epinephrine auto-injectors from a physician or advanced practice nurse licensed to practice medicine in all its branches, or (2) fill the District's prescription for undesignated school epinephrine auto-injectors.<sup>14</sup>

---

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

<sup>9</sup> Optional. If the board chooses to implement an undesignated opioid antagonist program, and the district employs law enforcement, consult the board attorney about whether this subhead becomes required. See Alcoholism and Other Drug Abuse and Dependency Act, ~~20 ILCS 301/~~, amended by P.A. 100-201.

For boards that choose to implement an undesignated opioid antagonists program, consult the board attorney regarding the Safe and Drug-Free School and Communities Act of 1994, ~~20 U.S.C. §7101(b)~~. It prohibits funds provided under it to be used for medical services or drug treatment or rehabilitation, except for integrated student supports, specialized instructional support services, or referral to treatment for impacted students, which may include students who are victims of, or witnesses to crime or who illegally use drugs.

A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30(h-5), amended by P.A. 99-480. The law permits a district to maintain a supply of undesignated opioid antagonists in any secure location where a person is at risk of an opioid overdose and use them when necessary. The consequences of informing the community that the district will obtain a prescription for a supply of opioid antagonists and implement a plan for their use, and then not doing it may be fraught with legal liabilities.

The superintendent is given broad authority to implement this section; however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of opioid antagonists in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

<sup>10</sup> See the discussion regarding *trained personnel* in f/n 7, above.

<sup>11</sup> See f/n 8, above.

<sup>12</sup> Optional sentence if the board chooses to implement an undesignated opioid antagonist program as discussed in f/n 9, above. 20 ILCS 301/20-30, added by P.A. 100-494, eff. 6-1-18, mandates the Ill. Dept. of Human Services to create a website with these resources. The purpose of this sentence is to provide the community with information about a public health crisis affecting students.

<sup>13</sup> Remove this section if the board does not adopt the undesignated epinephrine auto-injector or the undesignated opioid antagonist sections of the policy. If the board adopts one or the other, delete the appropriate paragraph in this section.

<sup>14</sup> Discuss with the board attorney whether the board should remove this sentence when the district reaches full implementation of this section.

The **School District Supply of Undesignated Opioid Antagonists** section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for opioid antagonists from a health care professional<sup>15</sup> who has been delegated prescriptive authority for opioid antagonists in accordance with Section 5-23 of the Alcoholism and Other Drug Abuse and Dependency Act, or (2) fill the District's prescription for undesignated school opioid antagonists.<sup>16</sup>

Upon any administration of an undesignated epinephrine auto-injector or an opioid antagonist, the Superintendent or designee(s) must ensure all notifications required by State law and administrative procedures occur.<sup>17</sup>

Upon implementation of this policy, the protections from liability and hold harmless provisions as explained in Section 22-30(c) of the School Code apply.

No one, including without limitation parents/guardians of students, should rely on the District for the availability of an epinephrine auto-injector and/or opioid antagonist. This policy does not guarantee the availability of an epinephrine auto-injector and/or opioid antagonist; students and their parents/guardians should consult their own physician regarding such medication(s).

LEGAL REF.: 105 ILCS 5/10-20.14b, 5/10-22.21b, and 5/22-30.  
23 Ill.Admin.Code §1.540.

CROSS REF.: 7:285 (Food Allergy Management)

ADMIN. PROC.: 7:270-AP1 (Dispensing Medication), 7:270-AP2 (Checklist for District Supply of Undesignated Epinephrine Auto-Injectors and/or Opioid Antagonists), 7:270-E (School Medication Authorization Form)

---

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

<sup>15</sup> *Health care professional* means a physician licensed to practice medicine in all its branches, a licensed physician assistant with prescriptive authority, a licensed advanced practice registered nurse with prescriptive authority, or an advanced practice registered nurse who practices in a hospital or ambulatory surgical treatment center and possesses appropriate clinical privileges in accordance with the Nurse Practice Act, (20 ILCS 301/5-23(d)(4), amended by P.A.s 99-173, ~~and~~ 99-480, 100-201, and 100-513).

<sup>16</sup> See f/n 13 above.

<sup>17</sup> 105 ILCS 5/22-30, amended by P.A. 99-480 details specific required notifications, which are listed in 7:270-AP2, *Checklist for District Supply of Undesignated Epinephrine Auto-Injectors and/or Opioid Antagonists*.



## Students

### Orders to Forgo Life-Sustaining Treatment <sup>1</sup>

Written orders from parent(s)/guardian(s) to forgo life-sustaining treatment for their child ~~or ward~~ must be signed by the ~~child's-student's~~ physician and given to the Superintendent. This policy shall be interpreted in accordance with the Illinois Health Care Surrogate Act. 755 ILCS 40/. <sup>2</sup>

Whenever an order to forgo life-sustaining treatment is received, the Superintendent shall convene a multi-disciplinary team that includes:

1. The ~~child~~student, when appropriate;
2. The ~~child's-student's~~ parent(s)/guardian(s);
3. Other medical professionals, e.g., licensed physician, physician's assistant, or nurse practitioner;
4. Local first responders for the building in which the ~~child-student~~ is assigned to attend school;<sup>3</sup>
5. The school nurse;
6. Clergy, if requested by the ~~student~~child or his or her parent(s)/guardians(s);
7. Other individuals to provide support to the ~~student~~child or his or her parent(s)/guardian(s); and
8. School personnel designated by the Superintendent.<sup>4 5</sup>

---

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

<sup>1</sup> This policy is optional. State or federal law controls this policy's content. This policy concerns an area in which the law is unsettled in that there is no statute or binding decision resolving competing interests and providing direction to schools for handling *do not resuscitate* (DNR) orders.

<sup>2</sup> The Health Care Surrogate Act grants parents and court-appointed guardians the authority to decide whether to forgo life-sustaining treatment on behalf of their minor child in certain situations. 755 ILCS 40/20. The child must suffer a *qualifying condition*, which means the existence of a terminal condition, permanent unconsciousness, or incurable or irreversible condition. These terms are defined in the Act.

The Act does not address the obligation of school staff members to comply with orders to forgo life-sustaining treatment, including DNR orders. Rather, the Act is silent regarding directives on life-sustaining care outside a health care facility or performed by a non-health care provider. The law does, however, indicate who should be the ultimate decision maker – the parent(s)/guardian(s). School officials should use the Act, after consulting the school board's attorney, as a guideline.

<sup>3</sup> Municipal and/or village ordinances may affect response time and care from first responders.

The team shall determine guidelines to be used by school staff members in the event the child suffers a life-threatening episode at school or a school event.<sup>6</sup>

The District personnel shall convey orders to forgo life-sustaining treatment to the appropriate emergency or healthcare provider.

LEGAL REF.: Health Care Surrogate Act, 755 ILCS 40/  
Cruzan v. Director, Missouri Dept. of Health, 497 U.S. 261 (1990).  
In re: C.A., a minor, 236 Ill.App.3d 594603 N.E.2d 1171 (Ill.App.1st Dist., 1992).

---

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

<sup>4</sup> Consult the board attorney regarding the establishment of a multi-disciplinary team and whether attendance at meetings is necessary. Implementing orders to forgo life-sustaining care implicates the laws prohibiting discrimination on the basis of a disability. IDEA, 20 U.S.C. §1401; Section 504, 29 U.S.C. §794; ADA, 42 U.S.C. §12101 et seq., amended by the Americans with Disabilities Act Amendments Act (ADAAA), Pub. L. 110-325 and modified by the Lilly Ledbetter Fair Act, Pub. L. 111-2. A school agreeing to abide by such an order does so because of the disability's severity; a less severely disabled or non-disabled student would be treated differently. The U.S. Dept. of Education's Office for Civil Rights approved a policy that provided for a multi-disciplinary team to develop individually designed interventions. School staff members must use these interventions that might require honoring an order to forgo life-sustaining care. 21 IDELR 83 (3-31-94). This sample policy balances the interests of the parents with the district's obligation under federal law by using such a team. However, liability may exist when a district determines specific interventions and then does not provide them. See In re: Estate of Stewart v. Oswego Comm. Unit Sch. Dist. No. 308, 60 N.E.3d 896406 Ill.Dec. 345 (2nd Dist. 2016) (Ill. App. 2<sup>nd</sup> Dist., 2016) (denying tort immunity to district, finding its response to a student's asthma attack was willful and wanton (which district disputed as a possible heart attack)); In re Estate of Stewart, 77 N.E.3d 82412 Ill.Dec. 9142017 WL 603354 (Ill., 2017) (school district's appeal denied).

<sup>5</sup> Consult the board attorney about requiring teachers and other non-administrative school employees to administer medical care and/or treatment to students who are the subject of orders to forgo life-sustaining treatment. Generally, only licensed (formerly certificated) school nurses and non-licensed (formerly non-certificated) registered professional nurses may be required to administer medication to students. See 105 ILCS 5/10-22.21b and f/n 1 in policy 7:270, *Administering Medicines to Students*.

<sup>6</sup> The following are two optional sentences to add at the end of this paragraph:

**Option 1:** The Superintendent or designee will ensure minutes are taken that summarize the decisions and guidelines made during multi-disciplinary meetings and obtain signatures of the child's parent(s)/guardian(s) on the minutes of each multi-disciplinary meeting.

**Option 2:** The Superintendent or designee will monitor the effectiveness of the guidelines established during the multi-disciplinary meetings at times the multi-disciplinary team determines are necessary.

Boards may choose either or both options.

## Students

### Student Athlete Concussions and Head Injuries <sup>1</sup>

The Superintendent or designee shall develop and implement a program to manage concussions and head injuries suffered by students. The program shall:

1. Fully implement the Youth Sports Concussion Safety Act, that provides, without limitation, each of the following: <sup>2</sup>
  - a. The Board must appoint or approve member(s) of a Concussion Oversight Team for the District. <sup>3</sup>
  - b. The Concussion Oversight Team shall establish each of the following based on peer-reviewed scientific evidence consistent with guidelines from the Centers for Disease Control and Prevention: <sup>4</sup>

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

<sup>1</sup> Three Illinois statutes in the School Code have addressed student concussions:

- (1) The Youth Sports Concussion Safety Act, 105 ILCS 5/22-80, added by P.A. 99-245; trailer legislation (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year. The Act contains concussion safety directives for school boards and certain identified staff members. A school district must implement Sec. 22-80 if it offers interscholastic athletic activities or interscholastic athletics under the direction of a coach (volunteer or school employee), athletic director, or band leader. A school district may need to implement its return-to-learn protocol for a student's return to the classroom after he or she is believed to have experienced a concussion, "whether or not the concussion took place while the student was participating in an interscholastic activity." 105 ILCS 5/22-80(d). For a comprehensive discussion of this Act, see the IASB publication [Checklist for Youth Sports Concussion Safety Act](#); at: [iasb.com/law/](http://iasb.com/law/). Helpful guidance for implementing this law is available from the Lurie Children's Hospital's *A Guide for Teachers and School Professionals*.
- (2) 105 ILCS 25/1.15, ~~added by P.A. 98-1011~~, requires: (a) all high school coaching personnel to complete online concussion awareness training, and (b) all student athletes to view the IHSA video about concussions.
- (3) 105 ILCS 25/1.20, added by P.A. 99-831, requires the IHSA to require all member districts that have certified athletic trainers to have those trainers complete and submit a monthly report on student-athletes who have sustained a concussion during: 1) a school-sponsored activity overseen by the athletic trainer; or 2) a school-sponsored event of which the athletic director is made aware.

The Center for Disease Control and Prevention explains that a concussion is a type of traumatic brain injury caused by a bump, blow, or jolt to the head, or by a hit to the body that causes the head and brain to move rapidly back and forth. See [www.cdc.gov/headsup/index.html](http://www.cdc.gov/headsup/index.html). The CDC website contains excellent resources for the recognition, response, and prevention of concussions, including the opportunity to order or download free educational materials on concussions that can be distributed to parents, students, and coaches.

<sup>2</sup> 105 ILCS 5/22-80, added by P.A. 99-245; ~~trailer legislation (amended by P.A.s 99-486 and 100-309) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~

<sup>3</sup> 105 ILCS 5/22-80(d), added by P.A. 99-245; ~~trailer legislation (amended by P.A.s 99-486 and 100-309) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~ 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. The statute provides that the Team may be composed of only one person who need not be a licensed healthcare professional, however, that person may not be a coach. Id.

As this is administrative/staff work rather than governance work, the best practice is to have the Concussion Oversight Team be an *administrative* committee, but consult the board attorney for guidance. If it is a board committee, it must comply with the Open Meetings Act, 5 ILCS 120/1.02. For a discussion of the Open Meetings Act's treatment of committees, see the footnotes in 2:150, *Committees*.

<sup>4</sup> 105 ILCS 5/22-80(d), ~~added by P.A. 99-245; trailer legislation (amended by P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~

- i. A return-to-play protocol governing a student’s return to interscholastic athletics practice or competition following a force of impact believed to have caused a concussion. The Superintendent or designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play protocol. <sup>5</sup>
- ii. A return-to-learn protocol governing a student’s return to the classroom following a force of impact believed to have caused a concussion. The Superintendent or designee shall supervise the person responsible for compliance with the return-to-learn protocol. <sup>6</sup>
- c. Each student and the student’s parent/guardian shall be required to sign a concussion information receipt form each school year before participating in an interscholastic athletic activity. <sup>7</sup>
- d. A student shall be removed from an interscholastic athletic practice or competition immediately if any of the following individuals believes that the student sustained a concussion during the practice and/or competition: a coach, a physician, a game official,

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

<sup>5</sup> The Youth Sports Concussion Safety Act contains requirements for a student to return to play following a concussion ~~(Id.)~~. ~~The supervisor of the person responsible for compliance with the return-to-play protocol may not be a coach.~~ The student’s treating physician, physician assistant, advanced practice registered nurse, or an athletic trainer working under a physician’s supervision must evaluate and find that it is safe for the student to return to play. The student’s parent/guardian must sign a consent form that complies with statutory prerequisites. In addition, the student must also complete the requirements in the district’s return-to-play and return-to-learn protocols. Thus, the district through its protocols may add requirements for the student’s return, but may not delete any statutory requirements.

It is an open question whether the return-to-play protocol is limited to when the concussion occurred during an interscholastic athletic activity because the statute does not state “whether or not the concussion took place while the student was participating in an interscholastic athletic activity.” It makes sense, however, to apply the return-to-play protocol whenever a student suffers a concussion before allowing him or her to participate in an interscholastic athletic activity. See IHSA’s website contains a form for this, Post-concussion Consent Form (RTP/RTL); at: [ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx](https://ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx)

<sup>6</sup> 105 ILCS 5/22-80(g), added by P.A. 99-245; ~~trailer legislation amended by P.A.s 99-486 and 100-309) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~ ~~The supervisor of the person responsible for compliance with the return-to-learn protocol may not be a coach.~~ The return-to-learn protocol governs a student’s return to the classroom after a concussion, whether or not the concussion took place while the student was participating in an interscholastic athletic activity. Guidance from Lurie Children’s Hospital explains that recovery from a concussion must be an individualized process because no two concussions are the same. See *Return to Learn after a Concussion: A Guide for Teachers and School Professionals*, Lurie Children’s Hospital. This *Guide* explains that a student’s full recovery depends on both cognitive rest and physical rest. It suggests using a multidisciplinary team to facilitate a student’s return to the classroom and provides examples of accommodations and interventions. It also stresses the importance of identifying a school staff member who will function as a case manager or concussion management leader, such as a school nurse, athletic trainer, or school counselor. See IHSA’s website contains a form for this, Post-concussion Consent Form (RTP/RTL); at: [ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx](https://ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx).

<sup>7</sup> 105 ILCS 5/22-80(e), added by P.A. 99-245; ~~trailer legislation (amended by P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~ *Interscholastic athletic activity* is defined in Section 22-80(a) as “any organized school-sponsored or school-sanctioned activity for students, generally outside of school instructional hours, under the direction of a coach, athletic director, or band leader, including, but not limited to, baseball, basketball, cheerleading, cross country track, fencing, field hockey, football, golf, gymnastics, ice hockey, lacrosse, marching band, rugby, soccer, skating, softball, swimming and diving, tennis, track (indoor and outdoor), ultimate Frisbee, volleyball, water polo, and wrestling. The form must be approved by the Illinois High School Association (IHSA). See [ihsa.org/Resources/SportsMedicine/ConcussionManagement/5ConcussionResources.aspx](https://ihsa.org/Resources/SportsMedicine/ConcussionManagement/5ConcussionResources.aspx), ~~generally—and specifically for~~ *IHSA Concussion Protocols* and *IHSA Sports Medicine Acknowledgement & Consent Form* (Concussion, PES, Asthma Medication).

an athletic trainer, the student's parent/guardian, the student, or any other person deemed appropriate under the return-to-play protocol. <sup>8</sup>

- e. A student who was removed from interscholastic athletic practice or competition shall be allowed to return only after all statutory prerequisites are completed, including without limitation, the return-to-play and return-to-learn protocols developed by the Concussion Oversight Team. An athletic team coach or assistant coach may not authorize a student's return-to-play or return-to-learn. <sup>9</sup>
  - f. The following individuals must complete concussion training as specified in the Youth Sports Concussion Safety Act: all coaches or assistant coaches (whether volunteer or a district employee) of interscholastic athletic activities; nurses, licensed healthcare professionals or non-licensed healthcare professionals who serve on the Concussion Oversight Team (whether or not they serve on a volunteer basis); athletic trainers; game officials of interscholastic athletic activities; and physicians who serve on the Concussion Oversight Team. <sup>10</sup>
  - g. The Board shall approve school-specific emergency action plans for interscholastic athletic activities to address the serious injuries and acute medical conditions in which a student's condition may deteriorate rapidly. <sup>11</sup>
2. Comply with the concussion protocols, policies, and by-laws of the Illinois High School Association, including its *Protocol for Implementation of NFHS Sports Playing Rules for Concussion*, which includes its *Return to Play (RTP) Policy*.<sup>12</sup> These specifically require that:

---

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

<sup>8</sup> 105 ILCS 5/22-80(f), added by P.A. 99-245; ~~trailer legislation amended by (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~

<sup>9</sup> 105 ILCS 5/22-80(g), added by P.A. 99-245; ~~amended by trailer legislation (P.A. 99-486 and 100-309) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~ Most students with a concussion will not need a formal 504 plan or individualized education program; contact the board attorney whenever one is requested or the student's symptoms are prolonged.

<sup>10</sup> 105 ILCS 5/22-80(h), added by P.A. 99-245; ~~trailer legislation amended by (P.A. 99-486 and 100-309) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~ Individuals covered by this training mandate must ~~initially complete the~~ take a training course from an authorized training provider prior to serving on a Concussion Oversight Team (Team) and at least once every two years (or if not serving on the Team, at least once every two years), by 9-1-2016. See the footnotes in ~~policy 5:100, Staff Development Program. Physicians on Teams are required, to the greatest extent practicable, to periodically take an appropriate medical course on concussions. 105 ILCS 5/22-80(h)(3).~~

Note: Licensed healthcare professionals includes nurses and licensed clinical psychologists, physical therapists, occupational therapists, physicians' assistants, and athletic trainers working under the supervision of a physician. 105 ILCS 5/22-80(b). Non-licensed healthcare professionals is not specifically defined. Therefore, it is not entirely clear if a Team may include an individual, i.e., a building principal that is not mandated to take the training. As a matter of best practice and to reduce liability, all Team members should receive the training; however, consult with the board attorney for further guidance.

<sup>11</sup> 105 ILCS 5/22-80(i), added by P.A. 99-245; ~~trailer legislation (amended by P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~ A template is available on the IHSA website under *Emergency Action Plan (EAP) Resources* at: [ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx](http://ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx).

<sup>12</sup> The *Protocol for Implementation of NFHS Sports Playing Rules for Concussion* (<http://ihsa.org/documents/sportsMedicine/Concussion%20Protocols.pdf>) contains concussion information, provides instructions when a student athlete sustains an apparent concussion, and includes a *Return to Play (RTP) Policy*. The *Return to Play (RTP) Policy* addresses the requirements for returning a student athlete to play after he or she exhibits signs, symptoms, or behaviors of a concussion.

- a. A student athlete who exhibits signs, symptoms, or behaviors consistent with a concussion in a practice or game shall be removed from participation or competition at that time.
  - b. A student athlete who has been removed from an interscholastic contest for a possible concussion or head injury may not return to that contest unless cleared to do so by a physician licensed to practice medicine in all its branches in Illinois or a certified athletic trainer.
  - c. If not cleared to return to that contest, a student athlete may not return to play or practice until the student athlete has provided his or her school with written clearance from a physician licensed to practice medicine in all its branches in Illinois, advanced practice registered nurse, physician assistant or a certified athletic trainer working in conjunction with a physician licensed to practice medicine in all its branches in Illinois. **13**
3. Require that all high school coaching personnel, including the head and assistant coaches, and athletic directors obtain online concussion certification by completing online concussion awareness training in accordance with 105 ILCS 25/1.15. **14**
  4. Require all student athletes to view the Illinois High School Association's video about concussions. **15**
  5. Inform student athletes and their parents/guardians about this policy in the *Agreement to Participate* or other written instrument that a student athlete and his or her parent/guardian must sign before the student is allowed to participate in a practice or interscholastic competition. **16**
  6. Provide coaches and student athletes and their parents/guardians with educational materials from the Illinois High School Association regarding the nature and risk of concussions and head injuries, including the risks inherent in continuing to play after a concussion or head injury. **17**
  7. Include a requirement for staff members to notify the parent/guardian of a student who exhibits symptoms consistent with that of a concussion. **18**

*[For high school districts that belong to the IHSA and have certified athletic trainers.]*

---

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

**13** 105 ILCS 5/22-80(g)(4), amended by P.A. 100-309 and 225 ILCS 65/20-10, amended by P.A. 100-513, P.A. 100-513 amended the Nurse Practice Act to add *registered* to the definition of *advanced practice registered nurse*; accordingly, this policy reflects that change in terminology, even though Section 22-80 was not similarly amended.

**14** 105 ILCS 25/1.15(b), ~~added by P.A. 98-1011~~, requires high school coaching personnel and athletic directors hired before 8-18-2014 to have been certified by 8-19-2015. Coaching personnel and athletic directors hired on or after 8-19-2014 must be certified before the starting date of their position.

**15** 105 ILCS 25/1.15(e), ~~added by P.A. 98-1011~~.

**16** Required by 23 Ill.Admin.Code §1.530(b). IHSA drafted a sample *Concussion Information Sheet*, which is included within the *IHSA Sports Medicine Acknowledgement & Consent Form* and has been incorporated into 7:300-E1, *Agreement to Participate*. ~~It can be used to inform student athletes and parents, and it is available at~~ [Sec: ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx](http://ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx).

An ISBE rule defines *health-related information* to include a concussion policy acknowledgment (23 Ill.Admin.Code §375.10). The acknowledgment, therefore, must be kept with the student's school student records as a temporary record. (23 Ill.Admin.Code §375.40).

**17** IHSA has produced educational materials on concussions for coaches, parents/guardians, student athletes, and the school and health care providers on concussions. ~~See that are available at:~~ [ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx](http://ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx).

**18** This provision is optional.

8. Include a requirement for certified athletic trainers to complete and submit a monthly report to the Illinois High School Association on student-athletes who have sustained a concussion during: 1) a school-sponsored activity overseen by the athletic trainer; or 2) a school-sponsored event of which the athletic director is made aware.<sup>19</sup>

LEGAL REF.: 105 ILCS 5/22-80.  
105 ILCS 25/1.15.

CROSS REF.: 4:170 (Safety), [5:100 \(Staff Development Program\)](#), 7:300 (Extracurricular Athletics)

---

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

<sup>19</sup> Required by 105 ILCS 25/1.20, added by P.A. 99-831, for high school districts that belong to the IHSA and have certified athletic trainers.

## Students

### Student Records 1

School student records are confidential. Information from them shall not be released other than as provided by law.<sup>2</sup> A school student record is any writing or other recorded information concerning a student and by which a student may be identified individually that is maintained by a school or at its

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

<sup>1</sup> State law requires school boards to adopt policy and procedures implementing the Illinois School Student Records Act (ISSRA) and specifying the content of school student records, ~~23 Ill.Admin.Code §§375.100 and 226.740~~. Both State and federal law address school student records. See the federal Family Educational Rights and Privacy Act (FERPA, 20 U.S.C. §1232g, implemented by federal rules at 34 C.F.R. Part 99) and ~~the Ill. School Student Records Act (ISSRA, (105 ILCS 10/~~, ~~amended by P.A. 100-532~~, implemented by ISBE rules at 23 Ill.Admin.Code Part 375). In addition, the U.S. Dept. of Education's Privacy Technical Assistance Center (PTAC), a *one-stop* resource for education stakeholders to learn about data privacy, confidentiality, and security practices related to student-level longitudinal data systems, has information available at: [ptac.ed.gov/](http://ptac.ed.gov/). PTAC published a guide for school officials titled *Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices*, ~~available at:~~ [tech.ed.gov/wp-content/uploads/2014/09/Student-Privacy-and-Online-Educational-Services-February-2014.pdf](http://tech.ed.gov/wp-content/uploads/2014/09/Student-Privacy-and-Online-Educational-Services-February-2014.pdf). **School officials interested in cloud computing contracts should contact the board attorney.**

Confusion persists regarding the interplay between the FERPA and the Health Insurance Portability and Accountability Act of 1996 (HIPAA, [Pub. L. 104-191](#)). The Privacy Rule implementing HIPAA, issued by the U.S. Dept. of Health and Human Services, addresses the disclosure of individuals' health information by *covered entities*. [45 C.F.R. Parts 160 and 164, Subparts A and E](#). Generally speaking, a school district becomes a *covered entity*, and must comply with applicable sections in the Privacy Rule, if it provides health care and transmits health information in electronic form in connection with transactions. However, *educational records* as defined by FERPA are excluded from HIPAA's definition of *protected health information*, ~~(45 C.F.R. §160.103)~~. In most cases this exception relieves school districts of complying with burdensome privacy notices and authorization forms. The board attorney should be consulted on all HIPAA-related questions.

<sup>2</sup> A plethora of statutory and decisional law protects student records. Aside from the laws identified in f/n 1, other laws protecting student records include:

1. Schools may not provide a student's *personal information* to a business organization or financial institution that issues credit or debit cards, ~~(105 ILCS 5/10-20.38)~~.
2. Schools may not sell personal information concerning a child under the age of 16, with a few exceptions, unless a parent has consented, ~~(Children's Privacy Protection and Parental Empowerment Act, 325 ILCS 17/)~~.
3. The release of confidential information given by a student to a therapist, e.g., school counselor or psychologist, is governed by the Mental Health and Developmental Disabilities Confidentiality Act, ~~(740 ILCS 110/)~~.
4. Schools must keep a sex offender registration form received from law enforcement separately from school student records maintained on behalf of the juvenile sex offender, ~~(730 ILCS 152/121)~~.
5. Schools may not provide a parent/guardian who is not allocated *parenting time* (formerly *visitation*) access to his or her child's school records, unless a court finds that it is in the child's best interests to provide those records to the parent, ~~(The Illinois Marriage and Dissolution of Marriage Act, 750 ILCS 5/602.11, amended by P.A. 99-90)~~.
6. Schools may not provide a parent/guardian access to his or her child's school records if the parent is prohibited by an order of protection from inspecting or obtaining such records pursuant to the Domestic Violence Act of 1986 or the Code of Criminal Procedure of 1963, ~~(The Illinois Marriage and Dissolution of Marriage Act, 750 ILCS 5/602.11, amended by P.A. 99-763, eff. 1-1-17)~~.

~~6.7. The protection of student data collected by educational technology companies is governed by the Student Online Personal Protection Act, 105 ILCS 85/, added by P.A. 100-315.~~

**Note:** Nos. 5 and 6 may conflict with FERPA in that they restrict a parent/guardian's right to access his or her child's school records more than is expressly permitted by FERPA. 20 U.S.C. 1232g(a)(1)(A), (B); 34 C.F.R. 99.10(a). **Consult the board attorney for guidance.**

Allowing students to grade each other's papers does not violate FERPA; such student work is not a *school record* until it is recorded by the teacher. [Owasso I.S.D. No. I-011 v. Falvo, 122 S.Ct. 934 534 U.S. 426](#) (2002). School student records are *per se* prohibited from disclosure; a district is under no obligation to redact them. [Chicago Tribune Co. v. Chicago Bd. of Educ., 773 N.E.2d 674 \(Ill.App.1, 2002\) 332 Ill.App.3d 60 \(1st Dist. 2002\)](#).



direction by a school employee, regardless of how or where the information is stored, except as provided in State or federal law as summarized below: <sup>3</sup>

1. Records kept in a staff member's sole possession.
2. Records maintained by law enforcement officers working in the school.
3. Video and other electronic recordings (including without limitation, electronic recordings made on school buses<sup>4</sup>) that are created in part for law enforcement, security, or safety reasons or purposes. The content of these recordings may become part of a school student record to the extent school officials create, use, and maintain this content, or it becomes available to them by law enforcement officials, for disciplinary or special education purposes regarding a particular student.
4. Any information, either written or oral, received from law enforcement officials concerning a student less than the age of 17 years who has been arrested or taken into custody. <sup>5</sup>

State and federal law grants students and parents/guardians certain rights, including the right to inspect, copy<sup>6</sup>, and challenge school student records. The information contained in school student records shall be kept current, accurate, clear, and relevant. All information maintained concerning a student receiving special education services shall be directly related to the provision of services to that child.<sup>7</sup> The District may release directory information as permitted by law, but a parent/guardian

---

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

<sup>3</sup> 20 U.S.C. §1232g(a)(4); 34 C.F.R. §99.3; 105 ILCS 10/2(d); 705 ILCS 405/1-7 and 5-905; 23 Ill.Admin.Code §375.10. Rather than listing the exceptions in the policy, a school board may choose to end the sentence after the proviso "except as provided in State or federal law."

<sup>4</sup> For an explanation, see footnotes in 7:220, *Bus Conduct*.

<sup>5</sup> Many lawyers believe that once these records are received by a school, they are protected as *education records* under the federal Family Educational Rights and Privacy Act, 20 U.S.C. §1232g. Consult the board attorney for advice.

<sup>6</sup> 105 ILCS 10/5(a).

105 ILCS 10/5(c), amended by P.A. 100-532, requires that a parent's or student's request to inspect and copy records be granted no later than 10 business days (previously 15 school days) after the date of receipt of such a request by the official records custodian.

105 ILCS 10/5(c-5), added by P.A. 100-532, outlines how a school district may extend the timeline for response by not more than five business days from the original due date if one or more of these six reasons applies:

1. The requested records are stored in whole or in part at other locations than the office having charge of the requested records;
2. The request required the collection of a substantial number of specified records;
3. The request is couched in categorical terms and requires an extensive search for the records responsive to it;
4. The requested records have not been located in the course of routine search and additional efforts are being made to locate them;
5. The request for records cannot be complied with by the school district within the time limits prescribed by subsection (c) without unduly burdening or interfering with the operations of the school district; or
6. There is a need for consultation, which shall be conducted with all practicable speed, with another public body or school district among two or more components of a public body or school district having a substantial interest in the determination or in the subject matter of the request.

The person making the request and the school district may also agree in writing to extend the timeline for compliance for a period to be determined by the parties. Id.

<sup>7</sup> 23 Ill.Admin.Code §226.740(a).

shall have the right to object to the release of information regarding his or her child.<sup>8</sup> However, the District will comply with an *ex parte* court order requiring it to permit the U.S. Attorney General or designee to have access to a student's school records without notice to, or the consent of, the student's parent/guardian.<sup>9</sup> Upon request, the District discloses school student records without consent to officials of another school district in which a student has enrolled or intends to enroll, as well as to any person as specifically required by State or federal law.

The Superintendent shall fully implement this policy and designate an *official records custodian* for each school who shall maintain and protect the confidentiality of school student records, inform staff members of this policy, and inform students and their parents/guardians of their rights regarding school student records. <sup>10</sup>

### Student Biometric Information Collection <sup>11</sup>

The Superintendent or designee may recommend a student biometric information collection system solely for the purposes of identification and fraud prevention.<sup>12</sup> Such recommendation shall be consistent with budget requirements and in compliance with State law. Biometric information means

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

<sup>8</sup> This sentence is required if the board allows schools to release student directory information. (20 U.S.C. §1232g; 23 Ill.Admin.Code §375.80; 34 C.F.R. §99.37). There is at least one instance in Illinois in which parents were upset that their school district released students' names and addresses pursuant to a Freedom of Information Act (FOIA) request. FOIA contains an exemption for home addresses. Many lawyers, however, say that a district must release student information pursuant to a FOIA request when each of the following has occurred: the FOIA request seeks information that is included in the district's definition of student directory information, the district notified parents that it releases directory information, and the parents did not opt out of allowing directory information to be released concerning their child. An opinion from the Ill. Public Access Counselor supports that a district may not rely on the FOIA exemption for home addresses. (PAO 12-3).

The **PRESS** policy does not identify the components of *directory information*, leaving that task to implementing material. Boards may want to discuss this quagmire with the superintendent knowing that there are good reasons to release directory information (e.g., to allow the district to publish information about specific students) and good reasons to not release directory information (e.g., to avoid releasing names and addresses pursuant to a FOIA request).

23 Ill.Admin.Code 375.80(a)(1) includes *gender* as information which may be designated as directory information; however including *gender* within directory information may violate the federal Family Educational Rights and Privacy Act (FERPA). FERPA regulations provide that directory information "means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed" and it "includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended." 34 C.F.R. 99.3. Though FERPA regulations do not explicitly preclude the designation of *gender* as directory information, U.S. Department of Education (ED) guidance has consistently advised schools not to disclose a student's sex as directory information because it would be considered harmful or an invasion of privacy. See *Letter to Institutions of Postsecondary Education*, ED Family Policy Compliance Office (September 2009); ~~*Dear Colleague Letter on Transgender Students*, ED and U.S. Department of Justice (May 13, 2013-16)~~. Consult the board attorney about the practical implementation of this issue. Some attorneys, for example, believe photos of the "Girls Volleyball Team" may contradict ED guidance.

<sup>9</sup> 20 U.S.C. §1232(g)(j), as added by the Sec. 507 of the U.S.A. Patriot Act of 2001.

<sup>10</sup> Each school must have an *official records custodian*. (105 ILCS 10/4(a)). Districts must notify students and parents/guardians of their rights concerning school student records. (105 ILCS 10/3; 23 Ill.Admin.Code §375.30; 34 C.F.R. §99.7). Comprehensive faculty and student handbooks can provide required notices, along with other important information, to recipients. Handbooks can be developed by the building principal, but should be reviewed and approved by the superintendent and board. See exhibit 7:340-AP1, E1, *Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records*, and administrative procedure 7:340-AP1, *School Student Records*.

<sup>11</sup> This program is optional; however, districts either wishing to implement such a program or districts that have already engaged in the collection of student biometric information must have a policy consistent with the requirements of 105 ILCS 5/10-20.40 *et seq.* This section restates the School Code's requirements for a student biometric information policy.

<sup>12</sup> For districts already collecting biometric information, the following is an alternative:

The Superintendent or designee shall maintain a biometric screening program that is consistent with budget requirements and in compliance with State law.

any information that is collected through an identification process for individuals based on their unique behavioral or physiological characteristics, including fingerprint, hand geometry, voice, or facial recognition or iris or retinal scans.

Before collecting student biometric information, the District shall obtain written permission from the person having legal custody/parental responsibility<sup>13</sup> or the student (if over the age of 18).<sup>14</sup> Upon a student's 18th birthday, the District shall obtain written permission from the student to collect student biometric information.<sup>15</sup> Failure to provide written consent to collect biometric information shall not be the basis for refusal of any services otherwise available to a student.

All collected biometric information shall be stored and transmitted in a manner that protects it from disclosure. Sale, lease, or other disclosure of biometric information to another person or entity is strictly prohibited. <sup>16</sup>

The District will discontinue use of a student's biometric information and destroy all collected biometric information within 30 days after: (1) the student graduates or withdraws from the School District, or (2) the District receives a written request to discontinue use of biometric information from the person having legal custody/parental responsibility of the student or the student (if over the age of 18).<sup>17</sup> Requests to discontinue using a student's biometric information shall be forwarded to the Superintendent or designee.

The Superintendent or designee shall develop procedures to implement this policy consistent with State and federal law. <sup>18</sup>

---

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

<sup>13</sup> Several statutes define legal custody and when a court may grant it; the term requires statutory construction/interpretation and school boards should discuss this issue with their attorney prior to adopting a policy on collection of student biometric information.

105 ILCS 5/10-20.40(b)(1) states the definition of legal custody is the same as the definition of legal custody for purposes of residency, payment of tuition, hearings, and criminal penalties at 105 ILCS 5/10-20.12b(2)(i)-(v).

The Illinois Marriage and Dissolution of Marriage Act, 750 ILCS 5/, amended by P.A. 99-90, changed the terms *custody* and *visitation* to *parental responsibility* and *parenting time*, respectively. P.A. 99-90 also requires a *parenting plan* that allocates: (1) significant decision-making responsibilities; and (2) each parent's right to access his or her child's school records. The new law does not amend ISSRA or the School Code. **Consult the board attorney about whether the Illinois Marriage and Dissolution of Marriage Act's provisions change a noncustodial parent's ability to access a student's records.**

<sup>14</sup> Based upon 105 ILCS 5/10-20.40, written permission is not required annually; it is valid until a request for discontinuation of the use of biometric information is received or until the student reaches the age of 18. See 7:340-AP1, E5, *Biometric Information Collection Authorization*.

<sup>15</sup> Districts must reissue 7:340-AP1, E5, *Biometric Information Collection Authorization* to students turning 18 years of age during the school year. This is because all rights and privileges accorded to a parent under ~~ISSRA~~~~the Ill. School Student Records Act~~ become exclusively those of the student upon his or her 18th birthday, graduation from secondary school, marriage, or entry into military service, whichever comes first. 105 ILCS 10/2(g).

<sup>16</sup> State law contains two exceptions: (1) the individual who has legal custody/parental responsibility of the student or the student (if over the age of 18) consents to the disclosure, and (2) the disclosure is required by court order. 105 ILCS 10-20.40(b)(5); 750 ILCS 5/602.11, amended by P.A. 99-90.

<sup>17</sup> 105 ILCS 5/10-20.40(d). No notification to or approval from the district's local records commission, pursuant to the Local Records Act, is required to destroy student biometric information. See f/n 12 for a discussion about the terms *custody* and *parental responsibility*.

<sup>18</sup> Whether the student biometric information is an education record under FERPA, 20 U.S.C. §1232g, or falls under an exception to an education record under FERPA is an issue about which school boards should consult their board attorney. Protected Health Information under the U.S. Department of Health and Human Service's interpretations of the HIPAA excludes education records covered by FERPA, and thus HIPAA requirements are not expected to be triggered by districts collecting student biometric information. However, before implementing policies and procedures to collect student biometric information, a board should discuss these issues with the board attorney.

- LEGAL REF.: [Chicago Tribune Co. v. Chicago Bd. of Ed., 332 Ill.App.3d 60 \(1st Dist. 2002\).](#)  
[Owasso I.S.D. No. I-011 v. Falvo, 534 U.S. 426 \(2002\).](#)  
Family Educational Rights and Privacy Act, 20 U.S.C. §1232g; [implemented by 34](#)  
C.F.R. Part 99.  
Children’s Privacy Protection and Parental Empowerment Act, 325 ILCS 17/.  
105 ILCS 5/10-20.21b, 5/20.37, 5/20.40, [and 5/14-1.01 et seq., and 10/](#)  
[105 ILCS 10/, Illinois School Student Records Act.](#)  
50 ILCS 205/7.  
750 ILCS 5/602.11.  
23 Ill.Admin.Code Parts 226 and 375.
- CROSS REF.: 5:100 (Staff Development Program), 5:130 (Responsibilities Concerning Internal Information), 7:15 (Student and Family Privacy Rights), 7:220 (Bus Conduct)
- ADMIN PROC.: 7:15-E (Notification to Parents of Family Privacy Rights), 7:340-AP1 (School Student Records), 7:340-AP1, E1 (Notice to Parents/Guardians and Students of Their Rights Concerning a Student’s School Records), 7:340-AP1, E3 (Letter to Parents and Eligible Students Concerning Military Recruiters and Postsecondary Institutions Receiving Student Directory Information), [7:340-AP1, E4 \(Frequently Asked Questions Regarding Military Recruiter Access to Students and Student Information, 7:340-AP1, E5 \(Biometric Information Collection Authorization\).](#) 7:340-AP2 (Storage and Destruction of School Student Records), 7:340-AP2, E1 (Schedule for Destruction of School Student Records)