

School Board

Communications To and From the Board 1

The School Board welcomes communications from ~~the community~~, staff members, parents, students, and community members. ~~should~~. Individuals may submit questions or communications for the School Board's consideration to the Superintendent. ~~or may use the electronic link to the Board's email address(es) that is posted on the District's website.~~ 2 In accordance with the Open Meetings Act and the Oath of Office taken by Board members, individual Board members will not (a) reply to an email on behalf of the entire Board, or (b) engage in the discussion of District business with a majority of a Board-quorum. 3

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 portions of this policy but does not require a policy on any topic covered.

An alternative to the opening sentence follows: "The School Board welcomes communications from the school community."

2 School districts that maintain an Internet website, other than a social media or social networking website, must post a "mechanism, such as a uniform single email address, for members of the public to electronically communicate with elected officials," (50 ILCS 205/20, added by P.A. 98-930, eff. 1-1-2015). This must be done within 90 days of 1-1-2015. The sample policy's default language may be used even when the district provides each board member with an individual e-mail address. The language permits every board member to read all emails sent to the board or its members. This promotes good governance because all members are provided the same information and communications as illustrated below:

- When the district provides individual email addresses to board members, it can post a hyperlink on the district home page to an email address that will forward the communication to all 7 board members' email addresses simultaneously.
- When the district does not provide individual email addresses to board members, it can post a hyperlink on the district's home page to one email address that every board member may access.

Other ways to comply should be avoided unless they allow all board members to have equal access to communications. For example, posting a hyperlink on the district home page to a list of individual board member email addresses will not ensure that all board members have equal access to emails.

Whenever a district provides email addresses to individual board members, all emails sent to individual email addresses are subject to disclosure under the Freedom of Information Act. City of Champaign v. Madigan, 992 N.E.2d 629 (Ill.App.4th, 2013).

If the district does not maintain an Internet website, delete all text in the first paragraph after the word Superintendent and delete the entire second paragraph, i.e.: [The following provision is stricken-through to show the alternative.]

or may use the electronic link to the Board's email address(es) posted on the District's website. In accordance with the Open Meetings Act and the Oath of Office taken by Board members, individual Board members will not (a) reply to an email on behalf of the entire Board, or (b) engage in the discussion of District business with a majority of a Board quorum.

The Superintendent or designee shall:

1. Ensure that the home page for the District's website contains an active electronic link to the email address(es) for the School Board, and
2. Provide the Board, such as in the Board meeting packet, with all emails that are received and any feedback regarding them.

3 The oath of office in 105 ILCS 5/10-16.5 requires board members to swear or affirm that they "shall recognize that a board member has no legal authority as an individual and that decisions can only be made by a majority vote at a public board meeting." Deliberations of the board must be conducted openly; a meeting occurs whenever a majority of a quorum discusses public business; meetings must occur at a properly noticed board meeting that is open to the public (5 ILCS 120/1, 1.02, and 2). For additional information, see f/ns below and 2:140-E, *Guidance for Board Member Communications, Including Email Use*.

The Superintendent or designee shall: ~~4 provide the Board with a summary of these questions or communications and provide;~~

1. Ensure that the home page for the District's website contains an active electronic link to the email address(es) for the School Board, and
2. Provide the Board, such as appropriate, his or her in the Board meeting packet, with all emails that are received and any feedback regarding the matter. them.

If contacted individually, Board members will refer the person to the appropriate level of authority, except in unusual situations. Board members' questions or communications to staff or about programs will be channeled through the Superintendent's office. Board members will not take private individual action that might compromise the Board or District. There is no expectation of privacy for any communication sent to the Board or its members individually, whether sent by letter, email, or other means.

Board Member Use of Electronic Communications 5

For purposes of this section, *electronic communications* includes, without limitation, electronic mail, electronic chat, instant messaging, texting, and any form of social networking. ~~6 Electronic communications to, by, and among a majority or more of a Board-quorum members, in their capacity as Board members,~~ shall not be used for the purpose of discussing District business. Electronic communications among Board members shall be limited to: ~~7 (1) disseminating information, and (2) messages not involving deliberation, debate, or decision-making. The following list contains examples of permissible electronic communications; may contain:~~

- Agenda item suggestions
- Reminders regarding meeting times, dates, and places
- Board meeting agendas or information concerning agenda items
- Individual ~~responses to questions posed by emails to~~ community members, subject to the other limitations in this policy

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

~~4 Directive #1 to the superintendent restates the statutory requirement to post a hyperlink to the email address on the district's home page (50 ILCS 205/20, added by P.A. 98-930, eff. 1-1-2015). Directive #2 is optional; it adds a step to increase efficient responses to communications concerning the operation or management of the district or a school.~~

~~A public body is not required to reply to communications. Likewise, the Freedom of Information Act does not require questions to be answered. Chicago Tribune Co. v. Dept. of Financial & Professional Reg., 8 N.E.3d 11 (Ill.App. 4th, 2014).~~

~~5 With some exceptions, the Open Meetings Act requires that a board conduct its deliberations and business during meetings that the public may attend. A meeting means "any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business." 5 ILCS 120/1.02. Thus, any *electronic communication* discussing district business that circulates among a majority of a quorum of the board may qualify as a meeting for purposes of the Open Meetings Act and may be illegal. A violation of the Open Meetings Act is a Class C misdemeanor (5 ILCS 120/4).~~

~~The Local Records Act, 50 ILCS 205/, governs retention of district records; its definition of *public record* is more narrow 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. While this is a slippery slope without definitive parameters, electronic communication among board members that are permissible under this policy may generally be deleted; consult the board attorney for a more thorough analysis and a legal opinion.~~

~~6 The examples of *electronic communications* are optional and may be amended.~~

~~7 Complying with these restrictions will help avoid an Open Meetings Act violation.~~

LEGAL REF.: 5 ILCS 120/.
| [50 ILCS 205/20.](#)

CROSS REF.: 2:220 (School Board Meeting Procedure), 3:30 (Chain of Command), 8:110
(Public Suggestions and Concerns)

Operational Services

Fiscal and Business Management 1

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

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

Budget Planning

The District's fiscal year is from July 1 until June 30. ⁵ The Superintendent shall present to the Board, no later than the first regular meeting in August, a tentative budget with appropriate explanation. ⁶ This budget shall represent the culmination of an ongoing process of planning for the fiscal support needed for the District's educational program. The District's budget shall be entered upon the Illinois State Board of Education's "School District Budget Form." ⁷ 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. ⁸

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

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

¹ State or federal law controls this policy's content. [Article 17 of the School Code controls budgeting, tax levys, and tax warrants.](#)

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

³ 105 ILCS 5/10-17.

⁴ See exhibit 6:235-E2, *Authorization for Electronic Network Access*. Use of electronic networks in the curriculum is covered in policy 6:235, *Access to Electronic Networks*.

~~This optional paragraph addresses a budget calendar:~~

~~Each January the Board adopts a proposed budget calendar indicating dates for presentation by the Superintendent of receipts, estimates, preliminary expenditure recommendations by funds, and major Board actions affecting the budget.~~

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

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

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

⁸ State law requires the budget to be balanced and, if not, a 3-year deficit reduction plan must be developed (105 ILCS 5/17-1).

⁹ At least one public hearing must be held 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. **11** The proposed budget shall be available for public inspection at least 30 days before the time of the budget hearing.

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

Final Adoption Procedures

The Board adopts a budget before the end of the first quarter of each fiscal year, September 30, or by such alternative procedure as State law may define. **13** To the extent possible, the budget shall be balanced as defined by the State Board of Education; if not balanced, the Board will adopt a deficit reduction plan to balance the District's budget within 3 years according to State Board of Education requirements. **14**

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

The Superintendent or designee shall perform each of the following:

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

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

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

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

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

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

14 Required by 105 ILCS 5/17-1. See [fn](#) 8.

15 Required by 105 ILCS 5/10-7.

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

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

18 Required by 105 ILCS 5/17-1.

19 105 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. **20**

Implementation

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

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

LEGAL REF.: 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-E2 (Exhibit - Authorization for Electronic Network Access)

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

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

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

22 105 ILCS 5/17-2A contains the requirements for a permanent transfer. P.A. ~~96-1201 98-131~~ extended the time period during which a district may transfer money from specified funds for any purpose to ~~June 30, 2013~~ July 1, 2016.

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

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

105 ILCS 5/20-10 ~~amended by P.A. 96-1277, now codified~~ 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. ~~P.A. 96-1277 legislatively overturned easelaw~~ 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. Ventures v. Novak, 902 N.E.2d 744 (Ill.App. 2nd Dist., 2009); G.I.S. Venture v. Novak, 2014 IL App. (2d) 130244 (9/30/2014)). Abolishments (deplete all funds) of the working cash fund must still be transferred to the education fund only.

Operational Services

Insufficient Fund Checks and Debt Recovery

Insufficient Fund Checks 1

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

Delinquent Debt Recovery 2

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

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

1 State law controls this policy's content. 810 ILCS 5/3-806 authorizes a \$25.00 collection fee whenever a check is not honored upon presentation because the individual does not have an account with the bank, the individual does not have sufficient funds in his or her account, or the individual does not have sufficient credit with the bank.

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

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

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

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

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

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

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

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

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, 2 or (2) within one and one-half miles from his or her assigned school where walking to school or to 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. 3 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. 4 Free transportation service and vehicle adaptation is provided for a special education student if included in the student's individualized educational program. 5 Non-public school students shall be transported in accordance with State law. 6 Homeless students shall be transported in accordance with Section 45/1-15 of the Education for Homeless Children Act. 7

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

1 State law controls this policy's content (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).

Each district must have a pre-trip and post-trip inspection policy (625 ILCS 5/12-816). 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). 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 1-1/2 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.

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.

7 105 ILCS 45/. State law implements the McKinney Homeless Assistance Act, 42 U.S.C. §11431 *et seq.*

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 1½ 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. **8**

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. **9**

No school employee may transport students in school or private vehicles unless authorized by the administration. **10**

Every vehicle regularly used for the transportation of students must pass safety inspections in accordance with State law and Illinois Department of Transportation regulations. **11** 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. **12** The Superintendent shall implement procedures in accordance with State law for accepting comment calls about school bus driving. **13**

All contracts for charter bus services must contain the clause prescribed by State law regarding criminal background checks for bus drivers. **14**

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

8 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). This rule also contains the non-discrimination language.

9 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."

10 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 5:120, *Ethics and Conduct* (f/n 2), and 5:100 *Staff Development* (f/n 3), for more detailed discussions. Include policies 5:100, *Staff Development* and 5:120, *Ethics and Conduct*, in the cross references when this sentence is used.

11 625 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 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.

12 625 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.

13 625 ILCS 5/12-821(b) requires districts that own school busses and multifunction school activity busses 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*.

14 105 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 points 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:

Pre-Trip and Post-Trip Vehicle Inspection 15

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.

(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.”

15 625 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 §440-3. For a sample procedure, see 4:110-AP2, *Bus Driver Communication Devices; Pre-Trip and Post-Trip Inspection; Bus Driving Comments*. School district 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). “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). 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. ~~Two-way radios may not be as effective as cell phones: they do no good when the bus driver is out of the bus with children (the radio is in the bus but the driver is with the children on a field trip, for example) and their range may be inferior to that of cell phones. Four important exceptions allow a driver to use a cell phone while operating a bus~~ 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. However under no circumstances may the ~~cell phone~~ cellular radio telecommunication device be used for anything else including personal use (625 ILCS 5/12-813.1).

- LEGAL REF.: McKinney 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.
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), 5:120 (Ethics and Conduct), 5:280
(Educational Support Personnel - Duties and Qualifications), 6:140 (Education of
Homeless Children), 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)

Operational Services

Food Services ¹

Good nutrition shall be promoted in the District's meal programs and in other food and beverages that are sold to students during the school day. The Superintendent shall manage a food service program that complies with this policy and is in alignment with School Board policy 6:50, *School Wellness*.

Food or beverage items sold to students as part of a reimbursable meal under ~~the School Breakfast Program or the National School Lunch Program~~ federal law must ~~consist of nutritious, well-balanced, and age-appropriate meals that reflect food and~~ follow the nutrition requirements standards specified by ~~in~~ the U.S. Dept. of Agriculture: ~~rules that implement the National School Lunch and Child Nutrition Acts. Schools being reimbursed for meals under these laws are participating schools.~~ ²

The ~~type and amounts of food and beverages sold~~ food service program in participating schools shall comply with the nutrition standards specified in the U.S. Dept. of Agriculture's *Smart Snacks rules* when it offers competitive foods to students ~~before on the school and campus~~ during the regular school day ~~in any school.~~ ³ Competitive foods are all food and beverages that ~~participates in the School Breakfast Program or the National School Lunch Program~~ shall are offered by any person, organization or entity for sale to students on the school campus during the school day that are not reimbursed under programs authorized by federal law. ⁴ The food service programs in participating schools shall also comply with any applicable mandates in the Illinois State Board of Education's School Food Service ~~rule and the federal~~ rules implementing ~~these federal laws and~~ the ~~National Ill. School Breakfast and Lunch Program Act and Child Nutrition Act.~~

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. ~~The requirements contained in this policy are mandatory only for these~~ Districts that participate in programs under the National School Lunch Act and Child Nutrition Acts ~~must establish policies and procedures as are necessary to ensure compliance with 7 C.F.R. §201(b).~~

ISBE's so-called "junk food" rule limits the ~~type and amounts sale~~ of competitive food and beverages ~~that may be~~ sold to students ~~in grades 8 or below before on the school and during the regular school day in campus of~~ any school that participates in the School Breakfast Program or the National School Lunch Program (23 Ill.Admin.Code §305.15(a)).

This policy's first sentence provides an opportunity for a school board to consider goals for the food service program and, if appropriate, amend the sentence. For example, a board may want to address the role of parents, alignment with curriculum, or the purpose of vending machines.

² 7 C.F.R. Parts 210 & 220.

³ Russell B. National School Lunch Act, 42 U.S.C. §1751 et seq., as amended by the Healthy Hunger-Free Kids Act of 2010 (P.L. 111-296); 7 C.F.R. §211(c).

⁴ 7 C.F.R. §210.11(a)(2); 23 Ill. Admin. Code §305.5.

~~The food service program shall restrict the sale of foods of minimal nutritional value as defined by the U.S. Dept. of Agriculture in the food service areas during meal periods.~~ All revenue from the sale of any food or beverages sold in competition with the School Breakfast Program or National School Lunch Program to students in food service areas during the meal period shall accrue to the nonprofit school lunch program account. 5

LEGAL REF.: ~~B.~~Russell B. National School Lunch Act, 42 U.S.C. §1751 et seq.
Child Nutrition Act of 1966, 42 U.S.C. §1771 et seq.
7 C.F.R. Parts 210 and 220, ~~Nutrition Standards in the National School Lunch and School Breakfast Programs~~ Food and Nutrition Service.
105 ILCS 125/
23 Ill.Admin.Code Part 305, School Food Service.

CROSS REF.: 4:130 (Free and Reduced-Price Food Services), 6:50 (School Wellness)

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

~~5 This sentence may be omitted by a high school district because the State rule, 23 Ill.Admin.Code. §305.15(a), only restricts foods and beverages sold to students before school and during the regular school day in grades 8 or below.~~

This paragraph ~~concerns~~ addresses the federal requirements for competitive food and beverages sold in competition to the school's food service. ~~The federal rule, 7 C.F.R. §210.11, (b). This rule~~ requires state agencies (ISBE) and/or [school districts] to:

~~[E]stablish "establish such rules or regulations policies and procedures as are necessary to control the sale of foods in competition ensure compliance with lunches served under the program. Such rules or regulations shall prohibit the sale of foods of minimal nutritional value, as listed in appendix B of this part, in the food service areas during the lunch periods.~~The [the federal rules].

State agencies and/or [school districts] may impose additional restrictions on competitive foods... ." ISBE's implementing rule, 23 Ill.Admin.Code §305.15(e), ~~requires that imposes additional restrictions by requiring "the revenue from all food sold in competition with the School Breakfast Program- any food or National School Lunch Program beverage meeting the competitive food standards sold~~ to students in food service areas during the meal period accrue to the nonprofit school lunch program account."

Operational Services

Free and Reduced-Price Food Services 1

Notice

The Superintendent shall be responsible for implementing the District’s free and reduced-price food services policy and all applicable programs. 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 controls this policy’s content. A policy on eligibility for free and reduced-price meals is required by 7 C.F.R. §245.10 for districts participating in the National School Lunch or Breakfast Programs.

Every public school must have a free lunch program (School Breakfast and Lunch Program Act, 105 ILCS 125/4).

Each school where at least 40% or more of the students are eligible for free or reduced-price lunches must operate a school breakfast program (Childhood Hunger Relief Act, 105 ILCS 126/~~as amended by P.A. 96-158~~). A school district may opt-out if the expense reimbursement would not fully cover the costs of implementing and operating the breakfast program. To do so, the district must petition its regional superintendent by February 15. The regional superintendent, after a public hearing, and by March 15, informs the district of his or her decision. If the regional superintendent does not grant an exemption, the district must implement a school breakfast program by the first student attendance day of the next school year. However, the school district or a resident of the school district may appeal the regional superintendent’s decision to the State Superintendent of Education.

School districts must, by February 15, promulgate a plan to serve breakfast and/or lunch at each school where 50% or more of the students are eligible for free or reduced-price school meals *and* have a summer school program operating during the summer months. 105 ILCS 126/20,~~as amended by P.A. 95-155 and 96-734~~. School districts must implement these programs every summer as long as the school district has a school or schools that meet the criteria. If a school building with a 50% or greater free and reduced percentage does not operate a summer school program, the school district shall make information available regarding the number of children in the school eligible for free or reduced-price school meals upon request by a non-profit organization. A school district may utilize an *opt-out* provision if documentation shows the expense reimbursement would not fully cover the costs of implementing and operating a program. To do so, the district must petition its regional superintendent of schools by January 15. The regional superintendent, after a public hearing, and by March 1, informs the district of his or her decision. If the regional superintendent does not grant an exemption, the district must implement and operate the summer food program the summer following the current school year. However, the school district or a resident of the school district may appeal the regional superintendent’s decision to the State Superintendent of Education who shall hear appeals and make a final decision no later than April 1. Resources for promulgating a plan for a summer breakfast or lunch (or both) food service program are available on ~~the State Board of Education’s~~ ISBE’s website at: www.isbe.net/nutrition/htmls/national_school_lunch.htm and www.isbe.net/nutrition/htmls/summer.htm.

2 7 C.F.R. §245.10(a)(1).

Eligibility Criteria and Selection of Children ³

A student's eligibility for free and reduced-price food services shall be determined by the income eligibility guidelines, family-size income standards, set annually by the U.S. Department of Agriculture and distributed by the Illinois State Board of Education.

Notification ⁴

At the beginning of each school year, by letter, the District shall notify students and their parents/guardians of: (1) eligibility requirements for free and reduced-price food service; (2) the application process; (3) the name and telephone number of a contact person for the program; ⁵ and (4) other information required by federal law. The Superintendent shall provide the same information to: (1) informational media, the local unemployment office, and any major area employers contemplating layoffs; ⁶ and (2) the District's website (if applicable), all school newsletters, or students' registration materials. ⁷ Parents/guardians enrolling a child in the District for the first time, any time during the school year, shall receive the eligibility information.

Nondiscrimination Assurance ⁸

The District shall avoid publicly identifying students receiving free or reduced-price meals and shall use methods for collecting meal payments that prevent identification of children receiving assistance.

Appeal ⁹

A family may appeal the District's decision to deny an application for free and reduced-price food services or to terminate such services as outlined by the U.S. Department of Agriculture in 7 C.F.R. §245.7, Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools. The Superintendent shall establish a hearing procedure for adverse eligibility decisions and provide by mail a copy of them to the family. The District may also use these procedures to challenge a child's continued eligibility for free or reduced-price meals or milk.

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

³ 7 C.F.R. §245.3; see also the subhead titled Household Eligibility Criteria on State Board of Education's website at: www.isbe.net/nutrition/htmls/forms_sbn.htm#hej. If a child transfers from one district school to another district school, his or her eligibility for free or reduced price meals or for free milk, if previously established, is honored by the receiving school.

Beginning in the year 2011-2012, the U.S. Depts. of Agriculture and Education implemented a new claiming option for providing reimbursements to school districts that provide free breakfasts and lunches to all students in schools with significantly economically disadvantaged populations. It is called the Community Eligibility Option (CEO). For more information about qualifying for and claiming through this reimbursement method, see www.isbe.net/e-bulletins/pdf/02-12.pdf.

For districts that qualify for and claim the CEO, insert the following sentence at the end of the first sentence:

From time to time, the income eligibility guidelines and standards may not be necessary when reimbursements for students' free breakfasts and lunches are claimed through the U.S. Depts. of Agriculture and Education's Community Eligibility Option (CEO). When claiming the CEO, the District will follow its requirements.

All subheads in this policy that detail the legal requirements under State and federal laws continue to apply when CEO is used and should remain in the policy.

⁴ 7 C.F.R. §245.5; 23 Ill.Admin.Code §305.10(c). Any changes in the eligibility criteria must be announced according to 7 C.F.R. §245.5(b).

⁵ 23 Ill.Admin.Code §305.10(c) requires notification of this one additional piece of information.

⁶ 7 C.F.R. §245.5.

⁷ 23 Ill.Admin.Code §305.10(c). Only one medium must be used; a board may choose one medium and delete the others from the policy or use them all.

⁸ 7 C.F.R. §§245.8 and 245.10(a)(4).

⁹ 7 C.F.R. §245.7. The minimal hearing requirements are also found there.

During an appeal, students previously receiving food service benefits shall not have their benefits terminated. Students who were denied benefits shall not receive benefits during the appeal.

The Superintendent shall keep on file for a period of 3 years a record of any appeals made and the hearing record. The District shall also maintain accurate and complete records showing the data and method used to determine the number of eligible students served free and reduced-price food services. These records shall be maintained for 3 years.

LEGAL REF.: U.S. Dept. of Agriculture, Food and Nutrition Service, National School Lunch Program, 7 C.F.R. Part 210.
U.S. Dept. of Agriculture, Food and Nutrition Service, Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools, 7 C.F.R. Part 245.
105 ILCS 125/ and 126/.
23 Ill.Admin.Code §305.10 et seq.

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. ²

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. ³ 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.

¹ 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 Act (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, green cleaning, among others.

The federal rules implementing the Americans with Disabilities Act (ADA) 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/. 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, (2) the district specify in all public works contracts that the prevailing rate must be paid, 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, amended by P.A.s 98-328 and 98-482).

² 105 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." The Regional Office of Education for Suburban Cook County was abolished and its duties and powers transferred to the Intermediate Service Center for the area by P.A. 96-893.

³ 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.
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.

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

⁴ 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 *Guidelines and Specifications*, established by the Ill. Green Government Coordinating Council, state: “[a]ll schools may continue to use their current cleaning supplies, equipment and policies until ... such time as the supplies and equipment on hand as of May 9, 2008 are exhausted.” See:

www.standingupforillinois.org/green/school_cleaning.php

www.standingupforillinois.org/uploads/20080122GCSAGuidelines.pdf.

⁵ 105 ILCS 5/2-3.12 and 23 Ill.Admin.Code Part 180 contain the Health, Life and Safety Code. Among its mandates is the decennial safety survey report. After 1-1-2015, 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, P.A. 98-883, eff. 1-1-2015).

The Ill. Environmental Barriers Act (410 ILCS 25/) and the Ill. Accessibility Code (71 Ill.Admin.Code Part 400) ensure that “all applicable buildings are 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). Press boxes constructed on school property before 7-1- 2009 do not have to comply with the Accessibility Code (105 ILCS 5/10-20.46).

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, specified repair purposes,” (105 ILCS 5/17-2.11, amended by P.A. 98-26). 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, 2016 (Id.).

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.). For environmental impact laws, see policy 4:160, *Environmental Quality of Buildings and Grounds*.

The inclusion and identification of the facility goals listed in the second paragraph are at the board's discretion.

Naming Buildings and Facilities ⁶

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. ⁷ 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.
20 ILCS 3130/, Green Buildings Act.
105 ILCS 5/2-3.12, 5/10-20.49, 5/10-22.36, 5/17-2.11, 140/, and 230/.
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.

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

⁷ 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.

General Personnel

Equal Employment Opportunity and Minority Recruitment 1

The School District shall provide equal employment opportunities² to all persons regardless of their race; color; creed; religion;³ national origin; sex;⁴ sexual orientation;⁵ age;⁶ ancestry; marital status;⁷ arrest record;⁸ military status; order of protection status;⁹ unfavorable military discharge;¹⁰

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

¹ Federal and State law (see the policy's legal 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.**

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

The Equal Employment Opportunities Act (Title VII) prohibits discrimination because of an individual's race, color, religion, sex, or national origin (42 U.S.C. §2000e, amended by The Lilly Ledbetter Fair Pay Act, Pub.L. 111-2).

The Lilly Ledbetter Fair Pay Act 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.

³ In addition to the Ill. Human Rights Act and the federal Equal Employment Opportunities Act (discussed in footnote 2); see the Religious Freedom Restoration Act (775 ILCS 35/).

⁴ In addition to the Ill. Human Rights Act and the federal Equal Employment Opportunities Act (discussed in f/n 2), see Title IX of the Education Amendments, 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*. Similar to the Lilly Ledbetter Fair Pay Act, 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. The Pregnancy Discrimination Act amended the Equal Employment Opportunities Act to prohibit discrimination on the basis of pregnancy, childbirth, or related medical conditions (42 U.S.C. §2000e(k).

⁵ Illinois Human Rights Act, 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).

⁶ 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 (see f/n 2). 29 C.F.R. Part 1625, amended the 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.

⁷ 105 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 (1996).

citizenship status provided the individual is authorized to work in the United States;¹¹ use of lawful products while not at work;¹² being a victim of domestic or sexual violence;¹³ genetic information;¹⁴ physical or mental handicap or disability, if otherwise able to perform the essential functions of the job with reasonable accommodation;¹⁵ pregnancy, childbirth, or related medical conditions;¹⁶ credit history, unless a satisfactory credit history is an established bona fide occupational requirement of a

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

⁸ 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/, added by P.A. 98-774, eff. 1-1-2015, 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. See also the 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.

⁹ 775 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)).

¹⁰ *Military status* means a person's status on active duty in the U.S. Armed Forces (775 ILCS 5/1-103). *Unfavorable military discharge* does not include those characterized as RE-4 or *dishonorable*, (Id.). The Uniformed Services Employment and Reemployment Rights Act, 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*. See footnote 9 in policy 5:30, *Hiring Process and Criteria*.

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

¹² 820 ILCS 55/5 prohibits discrimination based on use of lawful products, e.g., alcohol and tobacco, off premises during non-working hours.

¹³ Victims' Economic Security and Safety Act, 820 ILCS 180/30, amended by P.A. 98-766. 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 (820 ILCS 275/, amended by P.A. 98-766) allows an employer to seek a workplace protection restraining order when there is a credible threat of violence at the workplace. Section 21 requires the employer seeking a workplace protection restraining order to notify the employee who is a victim of unlawful violence.

¹⁴ 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. See footnote 5 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, EEOC published an informative guidance letter, *ADA & GINA: Incentives for Workplace Wellness Program*, [EEOC Informal Discussion Letter](#). 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.

¹⁵ Americans with Disabilities Act, 42 U.S.C. §§12111 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; Rehabilitation Act of 1973, 29 U.S.C. §791 et seq., modified by the Lilly Ledbetter Fair Pay Act, Pub. L. 111-2.

¹⁶ 775 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), added by P.A. 98-1050, eff. 1-1-2015). Employers are required to post a notice summarizing the right to be free from unlawful discrimination and the right to certain reasonable accommodations. The Ill. Dept. of Labor is required to prepare such a notice, retrievable from its website, which employers may use.

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 (7/14/2014) is available at www.eeoc.gov/laws/guidance/pregnancy_qa.cfm.

particular position;¹⁷ or other legally protected categories. **18 19 20 21** 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/. **22**

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, 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**

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

17 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.

18 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.

19 Optional provision (29 U.S.C. §705(10)(A) and (B), and 42 U.S.C. §12114):

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

1. Currently using illegal drugs;
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; 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.

Persons who have successfully completed or are participating in a drug rehabilitation program are considered *handicapped*.

20 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 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 Dist., 632 N.E.2d 1073 (Ill.App.3, 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).

21 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), added by P.L. 111-148. See sample language for a personnel handbook in 5:10-AP, *Administrative Procedure - Workplace Accommodations for Nursing Mothers*.

22 410 ILCS 130/40, added by P.A. 98-122; 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/, added by P.A. 98-122). 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*.

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 (Id., amended by P.A. 98-1050, eff. 1/1/2015). Most discrimination laws prohibit retaliation against employees who oppose practices made unlawful by those laws, including, for example, the Equal Employment Opportunities Act, Title IX, Americans with Disabilities Act, Age Discrimination in Employment Act, Victims' Economic Security and Safety Act, the Ill. Equal Pay Act, and the Ill. Whistleblower Act, 740 ILCS 174/.

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

Nondiscrimination Coordinator:

Name

Address

Email

Telephone

Complaint Managers:

Name

Address

Email

Telephone

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.

The Ill. Whistleblower Act specifically prohibits employers from retaliating against employees for: (1) disclosing information to a government or law enforcement agency (740 ILCS 174/15(a)), (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(b)), (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. 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 and the tort of retaliatory discharge, see Thomas v. Guardsmark, 487 F.3d 531 (7th Cir., 2007)(discussing the elements of retaliatory discharge and Ill. Whistleblower Act), and Sherman v. Kraft General Foods, Inc., 651 N.E.2d 708 (Ill.App.4th 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. 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. Thus the policy should be adopted with blanks for the superintendent to fill in later.

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. 25

Minority Recruitment 26

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, 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.: Age Discrimination in Employment Act, 29 U.S.C. §621 et seq.
Americans With Disabilities Act, Title I, 42 U.S.C. §12111 et seq.
Civil Rights Act of 1991, 29 U.S.C. §§621 et seq., 42 U.S.C. §1981 et seq., §2000e et seq., and §12101 et seq.
Equal Employment Opportunities Act (Title VII of the Civil Rights Act of 1964), 42 U.S.C. §2000e et seq., 29 C.F.R. Part 1601.
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.
Rehabilitation Act of 1973, 29 U.S.C. §791 et seq.
Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d et seq.
Pregnancy Discrimination Act, 42 U.S.C. §2000e(k).
Title IX of the Education Amendments, 20 U.S.C. §1681 et seq., 34 C.F.R. Part 106.
Uniformed Services Employment and Reemployment Rights Act (1994), 38 U.S.C. §§4301 et seq.
Ill. Constitution, Art. I, §§17, 18, and 19.
105 ILCS 5/10-20.7, 5/10-20.7a, 5/10-21.1, 5/10-22.4, 5/10-23.5, 5/22-19, 5/24-4, 5/24-4.1, and 5/24-7.
Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/40.

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

25 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.

26 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's guidelines for affirmative action plans); *Wygant v. Jackson Board of Education*, 106 S.Ct. 1842 (1986) (The goal of remedying societal discrimination does not justify race-based layoffs.); *City of Richmond v. J.A. Croson Co.*, 109 S.Ct. 706 (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, 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.

Genetic Information Protection Act, 410 ILCS 513/25.
Ill. Whistleblower Act, 740 ILCS 174/.
Ill. Human Rights Act, 775 ILCS 5/1-103, 5/2-102, [5/2-103](#), and [5/6-101](#).
Religious Freedom Restoration Act, 775 ILCS 35/5.
Employee Credit Privacy Act, 820 ILCS 70/.
[Job Opportunities for Qualified Applicants Act, 820 ILCS 820 ILCS 75/.](#)
Ill. Equal Pay Act of 2003, 820 ILCS 112/.
Victims' Economic Security and Safety Act, 820 ILCS 180/30.
23 Ill.Admin.Code §1.230.

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

Responsibilities Concerning Internal Information 1

District employees are responsible for maintaining: (1) the integrity and security of all internal information, and (2) the privacy of confidential records, including but not limited to: student school records, personnel records, and the minutes of, and material disclosed in, a closed School Board meeting. Internal information is any information, oral or recorded in electronic or paper format, maintained by the District or used by the District or its employees. The Superintendent or designee shall manage procedures for safeguarding the integrity, security, and, as appropriate, confidentiality of internal information.

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 the content of this policy to the extent that: (1) the unauthorized disclosure of student school records is prohibited by the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, and the Illinois School Student Records Act, 105 ILCS 104/1; (2) 5 ILCS 140/7 protects school security and response plans and maps from disclosure; (3) if a district offers a self-insured group health plan or flexible spending account, it must establish clear procedures to protect the employees' health information (45 C.F.R. §164.5020); (4) the Freedom of Information Act contains exemptions for certain private or personal information and employee evaluations (5 ILCS 140/7); (5) the Ill. Personnel Record Review Act governs the release of an employee's disciplinary action (820 ILCS 40 /); and (6) any person who knowingly destroys, removes, conceals, or alters any public record with the intent to defraud any party commits a Class 4 felony (50 ILCS 205/4, amended by P.A. 98-1063). These are examples of the laws requiring the safekeeping of district and school records.

This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. If a local collective bargaining agreement contains a provision on these responsibilities, it will supersede this policy and the board policy should state, "Please refer to the following current Agreement: [actual title of Collective Bargaining Agreement (not including dates)]."

This sample policy's intent is to safeguard district records accessed or created by employees. This includes protecting the district from unauthorized release of confidential records or the destruction of records. While the legal guidance is sparse, districts should take steps to avoid security breaches. Some districts may have more legal obligations than others. School districts that are considered "covered entities" under the Health Insurance Portability and Accountability Act (HIPAA) are required to comply with the HIPAA Security Rule. Furthermore, districts that allow foreign exchange students to attend their schools may need to put safeguards in place in order to protect data that is transferred to the Student and Exchange Visitor Information System (SEVIS).

To help maintain the integrity of records, districts should prevent their over-accumulation. Not all internal information must be preserved even if it is a *public record* for purposes of the Freedom of Information Act, 5 ILCS 140/. According to the Local Records Act, 50 ILCS 205/, a record must be retained only when it contains: (1) evidence of the district's organization, function, policies, procedures, or activities, or (2) informational data appropriate for preservation. While this is a slippery slope without definitive parameters, recorded information may generally be deleted that are conversational or personal, meeting notices, spam, email of a transient nature, duplicate material sent from other staff members, and draft material. However, no district record, no matter its form, may be destroyed if it is subject to a litigation hold. See administrative procedure 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*. For guidance on Board member use and retention of email, see 2:140-E, *Guidance for Board Member Communications, Including Email Use*.

LEGAL REF.: Family Educational and Privacy Rights Act, 20 U.S.C. §1232g.
Uses and Disclosures of Protected Health Information; General Rules, 45 C.F.R.
§164.502.
Ill. Freedom of Information Act, 5 ILCS 140/.
Local Records Act, 50 ILCS 205/.
105 ILCS 10/.
Personnel Record Review Act, 820 ILCS 40/.

CROSS REF.: 2:140 (Communications To and From the Board), 2:250 (Access to District
Public Records), 5:150 (Personnel Records), 7:340 (Student Records)

General Personnel

Family and Medical Leave ¹

Leave Description

An eligible employee may use unpaid family and medical leave (FMLA leave), guaranteed by the federal Family and Medical Leave Act. ~~for up to a combined total of 12 weeks each year, beginning September 1 and ending August 31 of the next year. The U.S. Department of Labor's rules (federal rules) implementing FMLA, as they may be amended from time to time, control FMLA leave.~~

An eligible employee may take FMLA leave for up to a combined total of 12 weeks each 12-month period, beginning September 1 and ending August 31 of the next year. ²

During a single 12-month period, an eligible employee's FMLA leave entitlement may be extended to a total of 26 weeks of unpaid leave to care for a covered servicemember (defined herein in the federal rules) with a serious injury or illness. The "single 12-month period" is measured forward from the date the employee's first FMLA leave to care for the covered servicemember begins. ³

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

¹ State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. This policy implements the very complex Family and Medical Leave Act, 29 U.S.C. §2612, (FMLA) and a school board is urged to have its attorney review it before adoption.

All public (and private) school employers are covered by the FMLA without regard to their number of employees (29 C.F.R. §§825.104 & 825.600). To be eligible for FMLA leave, however, an educational employee must be employed at a worksite where at least 50 employees are employed within 75 miles (29 C.F.R. §825.600).

The U.S. Department of Labor, Wage & Hour Division, has a very helpful website containing forms, compliance guidance, posters, etc. (www.dol.gov/whd/fmla). It also contains a link to the complete FMLA rules, 29 C.F.R. Part 825.

~~29 U.S.C. §2612; 29 C.F.R. §825.200. The FMLA permits employers to choose among 4 methods for determining a 12-month period in which the 12-week entitlement occurs (Id.). While using a school year may be the easiest method to administer, another method may be more suitable for the district. If the district fails to select an option, the one that provides the most beneficial outcome for employees will be used (Id.).~~

2 29 C.F.R. §825.200 lists and explains the four methods boards may choose among for determining a 12-month period in which the 12-week entitlement occurs. While using a school year may be the easiest method to administer, another method may be more suitable for the district. Before changing to a different method of calculating the 12-month period, an employer must first give all employees at least 60-days' notice of the intended change; the transition must take place in such a way that the employees retain the full benefit of their leave entitlement under whichever method affords the greatest benefit to the employee. If the district fails to select an option, the one that provides the most beneficial outcome for employees will be used.

³ 29 C.F.R. §825, Section 585 of the National Defense Authorization Act for FY 2008, Pub. L. 110-181, added two types of family military leave – qualifying exigency leave and military caregiver leave. The latter leave extends the possible FMLA leave to 26 weeks in a *single 12-month period*. For more information, see f/n 6.

While FMLA leave is normally unpaid, the District will substitute an employee's accrued compensatory time-off and/or paid leave for unpaid FMLA leave. ⁴ All policies and rules regarding the use of paid leave apply when paid leave is substituted for unpaid FMLA leave. Any substitution of paid leave for unpaid FMLA leave will count against the employee's FMLA leave entitlement. Use of FMLA leave shall not preclude the use of other applicable unpaid leave that will extend the employee's leave beyond 12 weeks, provided that the use of FMLA leave shall not serve to extend such other unpaid leave. Any full workweek period during which the employee would not have been required to work, including summer break, winter break and spring break, is not counted against the employee's FMLA leave entitlement. ⁵

FMLA leave is available in one or more of the following instances: ⁶

1. The birth and first-year care of a son or daughter.
2. The adoption or foster placement of a son or daughter, including absences from work that are necessary for the adoption or foster care to proceed and expiring at the end of the 12-month period beginning on the placement date.
3. The serious health condition of an employee's spouse, child, or parent.
4. The employee's own serious health condition that makes the employee unable to perform the functions of his or her job.
5. The existence of a qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a ~~covered~~ military member on ~~covered~~ active duty (or has been notified of an impending call or order to active duty, as provided in federal rules.) ~~in support of a contingency operation. A "covered military member" must be either a member of a Reserve component or a retired member of the regular Armed Forces or Reserve. "Qualifying exigencies" exist in the following categories: short notice deployment, military events and related activities, childcare and school activities, financial and legal arrangements, rest and~~

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

⁴ This paragraph presents only one of many possible alternatives. The FMLA permits an employee to choose to substitute paid leave for FMLA leave, and an employer to require an employee to substitute paid leave for FMLA leave (29 C.F.R. §825.207). Substitution of paid leave for FMLA purposes means that the unpaid FMLA leave and the paid leave run concurrently. The sample policy, in the interests of clarity and limiting absences, requires this substitution. Likewise, an employer may require an employee to substitute accrued comp time against the employee's FMLA leave entitlement (29 C.F.R. §825.207(f)). Sample policy 5:310, *Compensatory Time-Off*, addresses the acquisition and use of comp time. The FMLA rules also describe the interaction between FMLA leave and leave taken pursuant to a disability plan and workers' compensation leave (29 C.F.R. §825.207(d) & (e)).

If employees have not previously been required to substitute accrued paid leave, this requirement's implementation may give rise to a duty to bargain because it affects the mandatory bargaining subject of employee paid leave.

⁵ 29 C.F.R. §825.200(h). If a holiday occurs within the week taken as FMLA leave, the week is still counted as a week of FMLA leave. However, if an employee is using FMLA leave in increments of less than one week, the holiday will not count against the employee's FMLA entitlement.

⁶ 29 C.F.R. §§825.112 & 825.200. See §§825.120 & 825.121 for birth or placement for adoption or foster care.

Leave for a qualifying exigency (reason number 5) is governed by 29 C.F.R. §§825.122 (definition) & 825.126.

Leave to care for a covered servicemember (reason number 6) is governed by 29 C.F.R. §§825.122 (definition) & 825.127. An eligible employee may take 26 weeks of leave in different "single 12-month periods" to care for multiple servicemembers or to care for the same servicemember with a subsequent serious injury or illness (29 C.F.R. §825.127).

Attorneys disagree whether the Illinois Family Military Leave Act, 820 ILCS 151/, applies to schools because its definition of *employer* does not specify school districts. A covered employer must allow a spouse, parent, child, or grandparent of a person called to military service to take an unpaid leave of 15 or 30 days, depending on the number of individuals employed by the employer. The length of leave provided to an employee under State law because his or her spouse or child is called to military service is reduced by the number of days of leave provided under 29 U.S.C. §2612(a)(1)(E) because of any qualifying exigency arising out of the fact that the employee's spouse or child is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces (820 ILCS 151/10(b)),

~~recuperation, post deployment activities, and additional activities as provided in the FMLA regulations.~~

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, as provided by federal rules. ~~A "covered servicemember" is a member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty for which he or she is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list~~

If spouses are employed by the District, they may together take only 12-weeks for FMLA leaves when the reason for the leave is 1 or 2, above, or to care for a parent with a serious health condition, or a combined total of 26 weeks for item 6 above. 7

An employee may be permitted to work on an intermittent or reduced-leave schedule in accordance with ~~FMLA regulations.~~ federal rules. 8

Eligibility 9

To be eligible for FMLA leave, an employee must be employed at a worksite where at least 50 employees are employed within 75 miles. In addition, one of the following provisions must describe the employee:

1. The employee has been employed by the District for at least 12 months and has been employed for at least 1,250 hours of service during the 12-month period immediately before the beginning of the leave. The 12 months an employee must have been employed by the District need not be consecutive. However, the District will not consider any period of previous employment that occurred more than 7 years before the date of the most recent hiring, except when the service break is due to National Guard or Reserve military service or when a written agreement exists concerning the District's intention to rehire the employee.
2. The employee is a full-time classroom teacher.

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

7 29 C.F.R. §§825.120(a)(3) & 825.121(a)(3).

8 29 C.F.R. §§825.121(b), 825.202 - 825.205 & 825.601.

9 29 C.F.R. §§825.110, 825.111, & 825.600. The default policy language exceeds federal law requirements because it provides immediate eligibility to full-time classroom teachers. A board may substitute the following to deny eligibility to classroom teachers who have not worked 12 months for the district, but it should first analyze collective bargaining consequences and seek its board attorney's advice:

To be eligible for FMLA leave, both of the following provisions must describe the employee:

1. The employee is employed at a worksite where at least 50 employees are employed within 75 miles; and
2. The employee has been employed by the District for at least 12 months and has been employed for at least 1,250 hours of service during the 12-month period immediately before the beginning of the leave. The 12 months an employee must have been employed by the District need not be consecutive. However, the District will not consider any period of previous employment that occurred more than 7 years before the date of the most recent hiring, except when the service break is due to National Guard or Reserve military service or when a written agreement exists concerning the District's intention to rehire the employee.

An employee's eligibility requires analysis of the information available in each case using the guidance in §825.110. Any week during which an employee is maintained on the payroll, even if the employee does not work that week, is counted toward the 12-months' service requirement.

Requesting Leave 10

If the need for the FMLA leave is foreseeable, an employee must provide the Superintendent or designee with at least 30 days' advance notice before the leave is to begin. If 30 days' advance notice is not practicable, the notice must be given as soon as practicable. The employee shall make a reasonable effort to schedule a planned medical treatment so as not to disrupt the District's operations, subject to the approval of the health care provider administering the treatment. The employee shall provide at least verbal notice sufficient to make the Superintendent or designee aware that he or she needs FMLA leave, and the anticipated timing and duration of the leave. Failure to give the required notice for a foreseeable leave may result in a delay in granting the requested leave until at least 30 days after the date the employee provides notice.

Certification 11

Within 15 calendar days after the Superintendent or designee makes a request for certification for a FMLA leave, an employee must provide one of the following:

1. When the leave is to care for the employee's covered family member with a serious health condition, the employee must provide a complete and sufficient certificate ~~completed~~ signed by the family member's health care provider.
2. When the leave is due to the employee's own serious health condition, the employee must provide a complete and sufficient certificate ~~completed~~ signed by the employee's health care provider.
3. When the leave is to care for a covered servicemember with a serious illness or injury, the employee must provide a complete and sufficient certificate ~~completed~~ signed by an authorized health care provider for the covered servicemember.
4. When the leave is because of a qualified exigency, the employee must provide: (a) a copy of the covered military member's active duty orders or other documentation issued by the military indicating that the military member is on active duty or call to active duty status, ~~in support of a contingency operation~~ and the dates of the covered military member's active duty service, and (b) a statement or description, signed by the employee, of appropriate facts regarding the qualifying exigency for which FMLA leave is requested.

The District may require an employee to obtain a second and third opinion at its expense when it has reason to doubt the validity of a medical certification.

The District may require recertification at reasonable intervals, but not more often than once every 30 days. Regardless of the length of time since the last request, the District may request recertification when the, (1) employee requests a leave extension, (2) circumstances described by the original certification change significantly, or (3) District receives information that casts doubt upon the continuing validity of the original certification. Recertification is at the employee's expense and must be provided to the District within 15 calendar days after the request. The District may request recertification every 6 months in connection with any absence by an employee needing an intermittent or reduced schedule leave for conditions with a duration in excess of 6 months.

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

~~10 29 C.F.R. §§825.302-825.304 require an employee to notify the employer of the need for leave and to generally schedule leave for planned medical treatments in a way that the absences do not unduly disrupt the employer's operations. The policy's notice provisions are the shortest time frame allowable (29 C.F.R. §825.302). The employee need not expressly request a leave under the FMLA. An employer may require that employees follow its usual and customary notice and procedural requirements for requesting leave.~~

~~11 Requests for medical certification, 2nd and 3rd opinions, and recertification are governed by 29 C.F.R. §§825.305-825.310. The appropriate certification forms are available at www.dol.gov/WHD/fmla/. Districts must inform the employee of the medical certification requirement and of the consequences for failing to provide it.~~

Failure to furnish a complete and sufficient certification on forms provided by the District may result in a denial of the leave request.

Continuation of Health Benefits 12

During FMLA leave, employees are entitled to continuation of health benefits that would have been provided if they were working. Any share of health plan premiums being paid by the employee before taking the leave, must continue to be paid by the employee during the FMLA leave. A District's obligation to maintain health insurance coverage ceases if an employee's premium payment is more than 30 days late and the District notifies the employee at least 15 days before coverage will cease.

Changed Circumstances and Intent to Return 13

An employee must provide the Superintendent or designee reasonable notice of changed circumstances (i.e., within 2 business days if the changed circumstances are foreseeable) that will alter the duration of the FMLA leave. The Superintendent or designee, taking into consideration all of the relevant facts and circumstances related to an individual's leave situation, may ask an employee who has been on FMLA leave for 8 consecutive weeks whether he or she intends to return to work.

Return to Work

If returning from FMLA leave occasioned by the employee's own serious health condition, the employee is required to obtain and present certification from the employee's health care provider that he or she is able to resume work. 14

An employee returning from FMLA leave will be given an equivalent position to his or her position before the leave, subject to: (1) permissible limitations the District may impose as provided in the FMLA or implementing regulations, and (2) the District's reassignment policies and practices. 15

Classroom teachers may be required to wait to return to work until the next semester in certain situations as provided by the FMLA regulations. 16

Implementation

The Superintendent or designee shall ensure that: (1) all required notices and responses to leave requests are provided to employees in accordance with the FMLA; 17 and (2) this policy is implemented in

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

12 Required by 29 C.F.R. §825.209. The same health benefits means, for example, that if family member coverage is provided to an employee, family member coverage must be maintained during FMLA leave. If an employer provides a new health plan or benefits or changes health benefits or plans while an employee is on FMLA leave, the employee is entitled to the new or changed plan or benefits to the same extent as if the employee were not on leave. *Health benefits* do not include individual policies paid exclusively by the employee. Districts must provide an advance written description of how premium payments must be made (29 C.F.R. §825.210).

If coverage lapses because an employee has not made required premium payments, the employer must still restore the employee to coverage and benefits when the employee returns from leave (29 C.F.R. §825.212). 29 C.F.R. §825.213 governs how districts may recover premium payments if the employee fails to return to work after the leave entitlement is exhausted or expires. The board attorney must be consulted for the appropriate premium recovery method.

13 This section is optional but allowed by 29 C.F.R. §825.311. Either or both sentences may be changed or omitted, provided the policy is applied uniformly.

14 Requiring *fitness for duty* certification is optional but allowed by 29 C.F.R. §825.312. This sentence may be deleted or changed in accordance with the rule.

15 29 C.F.R. §§825.214 - 825.216 & 825.604. An equivalent position must have the same pay (including any unconditional pay increases), benefits, and working conditions and involve the same or substantially similar duties (29 C.F.R. §825.215). Determining how an employee will be restored to an *equivalent position* is made on the basis of "established policies and practices" and collective bargaining agreements (29 C.F.R. §825.604).

16 Optional but allowed by 29 C.F.R. §825.602.

accordance with the FMLA. In the event of a conflict between the policy and the FMLA or its regulations, the latter shall control. The terms used in this policy shall be defined as in the FMLA regulations. **18**

LEGAL REF.: Family and Medical Leave Act, 29 U.S.C. §2601 et seq., 29 C.F.R. Part 825.

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:250 (Leaves of Absence), 5:310 (Compensatory Time-Off), 5:330 (Sick Days, Vacation, Holidays, and Leaves)

17 School districts must provide employees a general notice explaining the FMLA and the process for filing complaints (29 C.F.R. §825.300(a). This notice must also be provided to FMLA-covered employees; distribution may be accomplished electronically. A poster is available at www.dol.gov/WHD/fmla, [The Family and Medical Leave Act Poster](#).

When an employee requests FMLA leave or when the employer acquires knowledge that an employee's leave may be for a FMLA-qualifying reason, the employer must provide the employee with a notice of eligibility (within 5 business days absent extenuating circumstances) (29 C.F.R. §825.300(b). At the same time, the employer must provide the employee with a notice of rights and responsibilities (29 C.F.R. §825.300(c). Finally, the employer must notify the employee whether it has designated the leave as FMLA-qualifying (29 C.F.R. §825.300(d). The federal rules contain specific requirements for each of these notices. Fortunately, a prototype for each of these required notices is available at www.dol.gov/WHD/fmla (*WH-381 Notice of Eligibility and Rights & Responsibilities* and *WH-382 Designation Notice*). Willfully failing to provide the notices can subject an employer to a monetary penalty.

18 29 C.F.R. §825.102.

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 ~~certificate~~ license and may teach in the place of a certified licensed teacher who is under contract with the Board. There is no limit on the number of days that a substitute teacher may teach in the District during the school year. ~~However there is a limit on the number of days that a substitute teacher may teach for any one certified teacher under contract with the District in the same school year. The following limitations apply, except as follows:~~ 2

1. A substitute teacher holding a substitute ~~certificate~~ license may teach for any one licensed teacher under contract with the District only for a period not to exceed 90 school days.
2. A teacher holding a ~~valid early childhood, elementary, high school, Professional Educator License or special certificate Educator License with Stipulations~~ may teach for any one licensed teacher under contract with the District only for a period not to exceed 120 school days.

The Illinois Teachers' Retirement System (TRS) ~~in Illinois~~ 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. 3

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. 4

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

1 State law 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 ~~tuberculin skin test and, if appropriate, an X-ray~~ 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.

2 ~~Id.~~ Substitute teaching licenses are governed by 105 ILCS 5/21B-20(3) and 23 Ill.Admin.Code §25.520.

3 40 ILCS 5/16-118 and 40 ILCS 5/16-150.1. ~~The limitation for TRS annuitants of 120 paid days or 600 hours expired on June 30, 2011.~~

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.

4 If a board provides substitute teachers other benefits, it may consider listing them here.

Emergency Situations 5

A substitute teacher may teach when no ~~certified~~ 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 ~~will~~ shall notify the appropriate Regional Office of Education within 5 business days after the employment of a substitute teacher in an emergency situation.

LEGAL REF.: 105 ILCS 5/ ~~21-9, 5/~~ 21B-20(3),~~2~~ and 24-5.
23 Ill.Admin.Code §~~1.790~~ 25.520.

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.

⁵ 105 ILCS 5/21-9. 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

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 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

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

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

This policy 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 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 (P.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/).

² 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.

leave of less than 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

Sabbatical Leave ⁴

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

Personal Leave ⁵

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 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 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 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 ⁶

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 ⁷

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

⁵ State law does not address personal leave.

⁶ 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).

⁷ 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.

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 day.

Child-Rearing Leave 8

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 exceed 3 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. 9

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. 10 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. 11

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 12

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.

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

8 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).

9 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 School Dist. 212, 939 F.2d 440 (7th Cir., 1991); U.S. v. Consol. High School Dist. 230, 983 F.2d 790 (7th Cir., 1992); 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 School Dist. 230, *Supra*.

10 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.

11 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 . . .

12 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).

General Assembly Leave 13

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 14

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

School Visitation Leave

An eligible professional staff member is entitled to 8 hours during any school year, no more than 4 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. ¹⁵ 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. ¹⁶

The Superintendent shall develop administrative procedures implementing this policy consistent with the School Visitation Rights Act. ¹⁷

Leaves for Victims of Domestic or Sexual Violence 18

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. ¹⁹ Neither the law nor this policy creates a right for an employee to take unpaid leave that

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

¹³ Required by 105 ILCS 5/24-13.

¹⁴ State law provides guidelines for Dept of Defense leaves but does not require boards to offer them (105 ILCS 5/24-13.1).

¹⁵ 820 ILCS 147/15.

¹⁶ *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.

¹⁷ 820 ILCS 147/.

¹⁸ Required by the Victims' Economic Security and Safety Act, 820 ILCS 180/, amended by P.A. 98-766, and 56 Ill.Admin.Code §280. While the law applies to all school districts (820 ILCS 180/10(10)), the leave is only available to employees working for employers with at least 15 employees (820 ILCS 180/20(a)(2)). 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/EmployerInformation/Pages/posters.aspx). All districts must post this notice in a conspicuous place where notices to employees are customarily posted.

¹⁹ 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 8 work weeks of leave during any 12-month period." 820 ILCS 180/20(a)(2).

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.). **20**

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,²¹ (2) twenty days of paid leave of absence per year to a trustee of the Teachers' Retirement System in accordance with 105 ILCS 5/24-6.3,²² 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. **23**

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/~~1 et seq.~~ and 180/~~1 et seq.~~

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.

20 The Victims' Economic Security and Safety Act 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 (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.

21 Required by 105 ILCS 5/24-13.

22 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.

23 Required by 105 ILCS 5/24-6.2.

Instruction

School Year Calendar and Day ¹

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. ² The school calendar shall have a minimum of 185 days to ensure 176 days of actual student attendance. ³

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. ⁴ 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.

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

² 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: ~~however, (10 ILCS 5/11-4.1, amended by P.A. 98-773).~~ For the Election Day, the law encourages a school district ~~may choose to keep either (1) close the school open, or (2) hold a teachers' institute (10 ILCS 5/11-4.1) on that day with the students not in attendance (Id.).~~

³ 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).

⁴ 105 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), March 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 (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 25 (5 ILCS 490/155), the first full week of January 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, ~~amended by P.A. 97-1124~~), and Mother Mary Ann Bickerdyke Day on the second Wednesday in May (5 ILCS 490/175, added by P.A. 98-141).

School Day

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

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

⁵ A school day must consist of a minimum 5 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, ~~amended by P.A. 97-742, eff. 6-30-2013~~); 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:** ~~Eff. 6-30-2013, P.A. 97-742 repeals the section of the School Code that allows~~ districts ~~to~~ may no longer count days of attendance less than 5 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.

Contrast 105 ILCS 5/18-12. It allows a partial day of attendance to be counted as a full day 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 5 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 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).

⁶ 105 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 v. Barnette, 319 U.S. 624 (1943); Sherman v. Community Consolidated School District 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 requiring a mandatory *brief period of silence* for all Illinois public school students (Silent Reflection and Student Prayer Act, 105 ILCS 20/1). 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 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

Curriculum Content 1

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, ² (f) social studies, (g) art, (h) music, ³ and (i) drug and substance abuse prevention. ⁴ 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. ⁵
2. In grades 9 through 12, subjects include: (a) language arts, (b) writing intensive course, (c) science, (d) mathematics, ⁶ (e) social studies including U.S. history, (f) foreign language, (g) music, (h) art, (i) driver and safety education, and (j) vocational education. ⁷

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

¹ 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.](#)

² 105 ILCS 5/2-3.156, ~~added by P.A. 97-704, eff. 1-1-2013~~, 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. www.isbe.net/common_core/default.htm.

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 include the Common Core Standards.

³ 23 Ill.Admin.Code §1.430.

⁴ 105 ILCS 5/27-13.2. [House Resolution 824 \(2014\) urges all schools in Illinois to educate youth about the dangers of using heroin and the rising numbers of accidental deaths from heroin overdoses \(1\) through comprehensive drug education programs, including the Drug Abuse Resistance Education \(DARE\) program, and \(2\) especially on Ill. Heroin Abuse Awareness Day, November 4, 2014. No guidance on age appropriate instruction for heroin abuse is provided in the resolution.](#)

⁵ 105 ILCS 5/10-20.53.

⁶ 105 ILCS 5/2-3.156, ~~added by P.A. 97-704, eff. 1-1-2013~~. 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.](#)

⁷ 23 Ill.Admin.Code §1.440, 105 ILCS 5/27-22. The General Assembly encouraged school boards to implement American sign 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.

Students otherwise eligible to take a driver education course must receive a passing grade in at least 8 courses during the previous 2 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. **8** The course shall include classroom instruction on distracted driving as a major traffic safety issue. **9** 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. **10** 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. **11**

3. In grades 7 through 12, as well as in interscholastic athletic programs, steroid abuse prevention must be taught. **12**
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. **13**
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. **14**

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, ~~amended by P.A. 97-1025, eff. 1-1-13~~). 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 dates and driver's license number of each instructor who will teach driver education (Id.).

8 105 ILCS 5/27-24.2.

9 105 ILCS 5/27-24.2.

10 105 ILCS 5/27-17.

11 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 8 courses during the 2 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 ~~GED~~ high school equivalency or alternative education program or a ~~GED~~ high school equivalency certificate (~~formerly GED certificate~~);
2. Written verification that before dropping out, the individual had received passing grades in at least 8 courses during the 2 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.

12 105 ILCS 5/27-23.3.

13 105 ILCS 5/27-23.4.

14 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)).

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. **15**
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. **16**
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. For exemptions and substitutions, see policies 6:310, High School Credit for ~~Alternative Courses and Programs~~, and ~~Non-District Experiences~~; Course Substitutions; Re-Entering Students and 7:260, Exemption from Physical Activity. **17**
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

105 ILCS 5/27-13.3 requires a unit on Internet safety for students in grades 3 or above. It recommends 7 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."

15 105 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 ~~bullying prevention and~~ gang resistance education and training in all grades and include such instruction in the courses of study regularly taught ~~therein~~ those grades," 105 ILCS 5/27-23.7**10**(c). A board that shares this concern may add the following option: "In addition, in all grades, ~~bullying prevention and~~ gang resistance education and training must be taught."

16 105 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 School 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.

17 105 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.

105 ILCS 5/27-6, amended by P.A. 98-116, describes when students may be excused from daily P.E. See also 23 Ill.Admin.Code §1.420(p). 105 ILCS 5/27-7 describes the goals and requirements for P.E. courses; these are re-stated in this sample policy.

105 ILCS 5/27-6 contains an exception to the daily P.E. requirement for schools engaged in block scheduling; if this is applicable, substitute this sentence for the last sentence in this paragraph:

Unless otherwise exempted, all students are required to engage daily during the school day, except on block scheduled days for those schools in block scheduling, in a physical education course.

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. **18**

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. **19**
11. In grades 9 through 12, consumer education must be taught, including: financial literacy; installment purchasing; budgeting, savings, and investing; banking; simple contracts; income taxes; personal insurance policies; the comparison of prices; homeownership; and the roles of consumers interacting with agriculture, business, labor unions, and government in formulating and achieving the goals of the mixed free enterprise system. **20**
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. **21**
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

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

18 105 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, ~~amended by 98-441, eff. 1-1-14~~), among other health education topics including *teen dating violence* (105 ILCS 110/3.10, ~~added by P.A. 98-190 and 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).
- (e) 105 ILCS 110/3, ~~amended by P.A. 97-1147~~ and 105 ILCS 5/10-23.13, ~~added by P.A. 96-1524~~ 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.state.il.us/reports/erins-law-final0512.pdf. The professional educator training component of *Erin’s Law* is addressed in policy 5:100, *Staff Development*. The Report also encourages parental involvement because parents play a key role in protecting children from child sexual abuse.

19 23 Ill.Admin.Code §1.420(i). See 105 ILCS 435/ for the Vocational Education Act.

20 105 ILCS 5/27-12.1; 23 Ill.Admin.Code §1.420(k).

21 105 ILCS 5/27-13.1 and 23 Ill.Admin.Code §1.420(l).

Depression), Hungarians, Irish, Italians, Lithuanians, Polish, Russians, Scots, and Slovaks in the history of this country and State. **22**

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. **23**

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. **24**
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. **25**
16. In all schools, the curriculum includes a unit of instruction on the history, struggles, and contributions of women. **26**
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. **27**
18. In all schools offering a secondary agricultural education program, the curriculum includes courses as required by 105 ILCS 5/2-3.80. **28**
19. In all schools, instruction during courses as determined by the Superintendent or designee on disability history, awareness, and the disability rights movement. **29**

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

22 105 ILCS 5/27-21 and 23 Ill.Admin.Code §1.420(r).

23 Section 111 of Division J of Pub. L. 108-447, the Consolidated Appropriations Act, 2005, Dec. 8, 2004; 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”

24 105 ILCS 5/27-3.5. The Congressional Medal of Honor film is available on ISBE’s website for no cost at www.isbe.net/curriculum/html/medal_of_honor.htm.

25 105 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*.

26 105 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 [urges](#) 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.

27 105 ILCS 527-20.4 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*.

28 105 ILCS 5/2-3.80(e) or (f).

29 105 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, 5/27-7, 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, 1.430, 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), 6:235
(Access to Electronic Networks), 6:70 (Teaching About Religions), 7:185 (Teen
Dating Violence Prohibited), [7:180 \(Prevention of and Response to Bullying,
Intimidation, and Harassment\)](#), 7:190 (Student Discipline), 7:260 (Exemption
from Physical Activity)

Instruction

Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program ¹

The Superintendent or designee shall develop, maintain, and supervise a program for students at risk of academic failure or dropping out of school. The program shall include education and support services addressing individual learning styles, career development, and social needs, and may include without limitation one or more of the following:

- Parent-teacher conferences
- Counseling services by social workers and/or guidance counselors
- Counseling services by psychologists
- Psychological testing
- Truants' alternative and optional education program ²
- Alternative school placement
- Community agency services
- Alternative learning opportunities program, in conformity with the Alternative Learning Opportunities Law, as it may be amended from time to time ³
- Graduation incentives program ⁴
- Remediation program ⁵

Any student who is below the age of 20 years is eligible to enroll in a graduation incentives program if he or she: ⁶

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.

² 105 ILCS 5/2-3.66 authorizes the ISBE to award grants to school districts, ROEs, and community college districts.

³ 105 ILCS 5/13B-1 et seq. Districts are not required to establish an alternative learning opportunities program. However, if they do, State law requires that the program "provide a flexible standards-based learning environment, innovative and varied instructional strategies, a student-centered curriculum, social programs, and supplemental social, health, and support services to improve the educational achievement of students at risk of academic failure" (105 ILCS 5/13B-20). The program must also meet the requirements in 105 ILCS 5/13B-45. Alternative learning opportunities programs "may include without limitation evening high school, in-school tutoring and mentoring programs, in-school suspension programs, high school completion programs to assist high school dropouts in completing their education, support services, parental involvement programs, and programs to develop, enhance, or extend the transition for students transferring back into the regular school program, an adult education program, or a post-secondary education program" (105 ILCS 5/13B-20.5). See 105 ILCS 5/13B-25.10, as well as other requirements for general State aid, for additional requirements to receive State funds for creating this program.

⁴ Required by 105 ILCS 5/26-16.

⁵ ~~105 ILCS 5/2-3.64, amended by P.A. 97-86, provides that "[i]f, by performance on the State tests or local assessments or by teacher judgment, a student's performance is determined to be 2 or more grades below current placement, the student shall be provided a remediation program developed by the district in consultation with a parent or guardian. Such remediation programs may include, but shall not be limited to, increased or concentrated instructional time, a remedial summer school program of not less than 90 hours (with an emphasis on reading and mathematics if the student has performed below grade level for 2 consecutive school years), improved instructional approaches, tutorial sessions, retention in grade, and modifications to instructional materials."~~ 105 ILCS 5/10-20.9a requires remedial assistance for students who are not promoted to the next higher grade.

1. Is considered a dropout according to State law;
2. Has been suspended or expelled;
3. Is pregnant or is a parent;
4. Has been assessed as chemically dependent; or
5. Is enrolled in a bilingual education or ~~LEP~~ English Language Learners program.

LEGAL REF.: 105 ILCS 5/2-3.41, ~~5/2-3.64~~, 5/2-3.66, 5/10-20.9a, 5/13B, ~~1-et-seq~~ 5/26-2a, 5/26-13, 5/26-14, and 5/26-16.

CROSS REF.: 6:280 (Grading and Promotion), 6:300 (Graduation Requirements), 7:70 (Attendance and Truancy)

6 Required by 105 ILCS 5/26-16. Graduation incentives programs are entitled to claim general State aid. A district must ensure that its graduation incentives program receives supplemental general State aid, transportation reimbursements, and special education resources, if appropriate, for students enrolled in the program. 105 ILCS 5/26-2a defines *dropout* as “any child enrolled in grades 9 through 12 whose name has been removed from the district enrollment roster for any reason other than the student’s death, extended illness, removal for medical non-compliance, expulsion, aging out, graduation, or completion of a program of studies and who has not transferred to another public or private school and is not known to be home-schooled by his or her parents or guardians or continuing school in another country.”

Instruction

Grading and Promotion 1

The Superintendent shall establish a system of grading and reporting academic achievement to students and their parents/guardians. ² 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 ~~based~~ on the Illinois ~~Standards Achievement Tests, Partnership for Assessment of Readiness for College and Careers (PARCC) and/or other testing assessments.~~ ³ A student shall not be promoted based upon age or any other social reason not related to academic performance. ⁴ The administration shall determine remedial assistance for a student who is not promoted. ⁵

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. ⁶ 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.~~

~~¹ 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 ~~or federal~~ 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).~~

~~² 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).~~

~~³ 105 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, 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.~~

~~⁴ Id.~~

~~⁵ 105 ILCS 5/10-20.9a, 105 ILCS 5/2-3.64, amended by P.A. 97-86, addresses remedial assistance for students who are 2 or more grades below current placement 105 ILCS 5/10-20.9a.~~

~~⁶ 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). The person making the change must assume all responsibility and must initial the change (Id.).~~

LEGAL REF.: 105 ILCS ~~5/2-3.64~~ 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), 6:300 (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 according to the year in which a student entered the 9th grade.~~
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. ~~Taking the Prairie State Achievement Examination~~ Participating in State assessments that are required for graduation by the School Code, 105 ILCS 5/2-3.64a-5, unless the student is exempt ~~according to 105 ILCS 5/2-3.64.~~ ⁵

The Superintendent or designee is responsible for: ⁶

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.

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.

In accordance with 105 ILCS 5/2-3.157, added by P.A. 98-560, 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. A participating school must notify ISBE of its participation by October 1 of each year or within 30 days after electing to participate, if that occurs after October 1.

² Optional (23 Ill.Admin.Code §1.440(f)). A school board should ensure that any 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 have timed-out such that only the final list of required courses is applicable. 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*.

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 (www.isbe.net/assessment/parcc.htm). 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.

⁶ 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.

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 to implement this policy.

Early Graduation 7

The Superintendent or designee shall implement procedures for students to graduate early, provided they finish 7 semesters of high school and meet all graduation requirements.

Certificate of Completion 8

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 years of high school, qualifies for a certificate of completion after the student has completed 4 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 9

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, ~~or General Educational Development (GED) diploma.~~

LEGAL REF.: 105 ILCS ~~5/2-3.64~~ 5/2-3.64a-5, 5/22-27, 5/27-3, 5/27-22, 5/27-22.10, and 70/23 Ill.Admin.Code §1.440.

CROSS REF.: 6:30 (Organization of Instruction), 6:320 (High School Credit for Proficiency), 7:50 (School Admissions and Student Transfers To and From Non-District Schools)

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

⁷ 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."

⁸ Required by 105 ILCS 5/14-16.

⁹ Optional. 105 ILCS 5/22-27 ~~amended by P.A. 96-88~~, 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-E, *Application for a Diploma for Veterans of WWII, the Korean Conflict, or the Vietnam Conflict*.

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. ~~Uses~~ 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. ~~2 Tests the grades and subjects according to the schedule required by the State assessment system. The District's assessment program may include testing students in grades not required by State law to be tested.~~
3. ~~Tracks the achievement of all students.~~ Provides each ~~student and his or her student's~~ parents/guardians ~~eustodians~~ with the results or scores of each State assessment and an evaluation of the student's learning on the basis of test and assessment results ~~progress~~. See policy 6:280, *Grading and Promotion*. ³
4. Utilizes professional testing practices. ⁴

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. ⁵ Board policy 7:340, *Student Records*, and its implementing procedures govern recordkeeping and access issues. ⁶

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. 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, 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/assessment. 105 ILCS 5/2-3.64a-5(d), added by P.A. 98-972, contains the requirements for assessing students receiving special education services and students determined to be English language learners.

² Required by 105 ILCS 5/2-3.64a-5(c), added by P.A. 98-972.

³ 105 ILCS 5/2-3.64a-5(e), added by P.A. 98-972, 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." [Strike-out is used to indicate the text to delete if desired.]

⁴ 105 ILCS 5/2-3.107; 23 Ill.Admin.Code §1.30(a).

⁵ Required by 105 ILCS 5/10-17a, amended by P.A. 98-648. 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 student performance by attendance center, the district's use of financial resources, characteristics, curriculum information, student outcomes and progress, and school environment. The environment report must include indicators of parental involvement in each attendance center from the school climate survey approved under 105 ILCS 5/2-3.153, amended by P.A. 98-648 (requires ISBE, in addition to its default school climate survey, to identify 2 or 3 alternative school survey instruments from which districts may select).

⁶ 105 ILCS 5/2-3.64a-5(e), added by P.A. 98-972, governs recording assessment results in school student records.

LEGAL REF.: Family Educational Rights and Privacy Act, 20 U.S.C. §1232g.
| ~~105 ILCS 5/2-3.63~~ 105 ILCS 5/2-3.63a-5, 5/2-3.64, 5/10-17a, and 5/27-1.

CROSS REF.: 6:15 (School Accountability), 6:280 (Grading and Promotion), 7:340 (Student
Records)

**IASB POLICY REFERENCE MANUAL
TABLE OF CONTENTS
SECTION 7 - STUDENTS**

Equity

- 7:10 Equal Educational Opportunities
 - 7:10-AP Administrative Procedure - Accommodating Transgender Students or Gender Non-Conforming Students
- 7:15 Student and Family Privacy Rights
 - 7:15-E Exhibit - Notification to Parents of Family Privacy Rights
- 7:20 Harassment of Students Prohibited
 - 7:20-AP Administrative Procedure - Harassment of Students Prohibited

Assignment and Admission

- 7:30 Student Assignment and Intra-District Transfer
- 7:40 Nonpublic School Students, Including Parochial and Home-Schooled Students
 - 7:40-AP Administrative Procedure - Placement of Nonpublic School Students Transferring Into the District
- 7:50 School Admissions and Student Transfers To and From Non-District Schools
 - 7:50-AP Administrative Procedure - School Admissions and Student Transfers To and From Non-District Schools
- 7:60 Residence
 - 7:60-AP1 Administrative Procedure - Challenging a Student's Residence Status
 - 7:60-AP2 Administrative Procedure - Establishing Student Residency
 - 7:60-AP2, E1 Exhibit - Letter of Residence from Landlord in Lieu of Lease
 - 7:60-AP2, E2 Exhibit - Letter of Residence to be Used When the Person Seeking to Enroll a Student Is Living with a District Resident
 - 7:60-AP2, E3 Exhibit - Evidence of Non-Parent's Custody, Control, and Responsibility of a Student

Attendance

- 7:70 Attendance and Truancy
- 7:80 Release Time for Religious Instruction/Observance
- 7:90 Release During School Hours
- 7:100 Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students
- 7:110 **OPEN**
- 7:120 **OPEN**

Rights and Responsibilities

- 7:130 Student Rights and Responsibilities

- 7:140 Search and Seizure
 - 7:140-AP Administrative Procedure - Use of Metal Detectors for Student Safety
 - 7:140-E Exhibit - Letter to Parents/Guardians Regarding the Right to Privacy in the School Setting Act
- 7:150 Agency and Police Interviews
 - 7:150-AP Administrative Procedure - Agency and Police Interviews
- 7:160 Student Appearance
- 7:165 School Uniforms
- 7:170 Vandalism
- 7:180 Prevention of and Response to Bullying, Intimidation, and Harassment
 - 7:180-AP1 Administrative Procedure - Prevention, Identification, Investigation, and Response to Bullying and School Violence
 - 7:180-AP1, E1 Exhibit - Resource Guide for Bullying and School Violence Prevention
 - 7:180-AP1, E2 Exhibit - Be a Hero by Reporting Bullying and School Violence
 - 7:180-AP1, E3 Exhibit - Memo to Staff Regarding Bullying and School Violence
 - 7:180-AP1, E4 Exhibit - Memo to Parents/Guardians Regarding Bullying and School Violence
 - 7:180-AP1, E5 Exhibit - Report Form for Bullying and School Violence
 - 7:180-AP1, E6 Exhibit - Interview Form for Bullying and School Violence Investigation
 - 7:180-AP1, E7 Exhibit - Response to Bullying and School Violence
- 7:185 Teen Dating Violence Prohibited
 - 7:185-E Exhibit - Memo to Parents/Guardians Regarding Teen Dating Violence
- 7:190 Student Discipline
 - 7:190-AP1 Student Handbook - Hazing Prohibited
 - 7:190-AP2 Student Handbook - Gang Activity Prohibited
 - 7:190-AP3 Administrative Procedure - Guidelines for Reciprocal Reporting of Criminal Offenses Committed by Students
 - 7:190-AP4 Administrative Procedure - Use of Isolated Time Out and Physical Restraint
 - 7:190-AP5 Student Handbook - Electronic Devices
 - 7:190-AP6 Administrative Procedure - Guidelines for Investigating Sexting Allegations
 - 7:190-AP7 Administrative Procedure - Student Discipline Guidelines
 - 7:190-E1 Exhibit - Aggressive Behavior Reporting Letter and Form
 - 7:190-E2 Exhibit - Student Handbook Checklist
- 7:200 Suspension Procedures

- 7:210 Expulsion Procedures
- 7:220 Bus Conduct
 - 7:220-AP Administrative Procedure - Electronic Recordings on School Buses
- 7:230 Misconduct by Students with Disabilities
- 7:240 Conduct Code for Participants in Extracurricular Activities
 - 7:240-AP1 Administrative Procedure - Code of Conduct for Extracurricular Activities
 - 7:240-AP2 Administrative Procedure - Extracurricular Drug and Alcohol Testing Program
 - 7:240-AP2, E1 Exhibit - Consent to Participate in Extracurricular Drug and Alcohol Testing Program

Welfare Services

- 7:250 Student Support Services
 - 7:250-AP1 Administrative Procedure - Measures to Control the Spread of Head Lice at School
 - 7:250-AP2 Administrative Procedure - Protocol for Responding to Students with Social, Emotional, or Mental Health Problems
- 7:260 Exemption from Physical Activity
- 7:270 Administering Medicines to Students
 - 7:270-AP1 Administrative Procedure - Dispensing Medication
 - 7:270-AP2 Administrative Procedure - Checklist for District Supply of Undesignated Epinephrine Auto-Injectors
 - 7:270-E Exhibit - School Medication Authorization Form
- 7:275 Orders to Forgo Life-Sustaining Treatment
- 7:280 Communicable and Chronic Infectious Disease
 - 7:280-AP Administrative Procedure - Managing Students with Communicable and Infectious Diseases
 - 7:280-E1 Exhibit - Placement of Students with AIDS
 - 7:280-E2 Exhibit - Reporting and Exclusion Requirements for Common Communicable Diseases
 - 7:280-E3 Exhibit - Preventing Staphylococcal Infections for Schools
- 7:285 Food Allergy Management Program
 - 7:285-AP Administrative Procedure - Implementing a Food Allergy Management Program
- 7:290 Adolescent Suicide Awareness and Prevention Programs
 - 7:290-AP Administrative Procedure - Adolescent Suicide and Crisis Intervention

Activities

- 7:300 Extracurricular Athletics

- 7:300-E1 Exhibit - Agreement to Participate
- 7:300-E2 Exhibit - Certificate of Physical Fitness for Participation in Athletics
- 7:300-E3 Exhibit - Authorization for Medical Treatment
- 7:305 Student Athlete Concussions and Head Injuries
 - 7:305-AP Administrative Procedure - Program for Managing Student Athlete Concussions and Head Injuries
- 7:310 Restrictions on Publications
 - 7:310-AP Administrative Procedure - Guidelines for Student Distribution of Non-School Sponsored Publications
- 7:320 **OPEN**
- 7:325 Student Fund-Raising Activities
 - 7:325-E Exhibit - Application and Procedures to Solicit Students for Fund-Raising
- 7:330 Student Use of Buildings - Equal Access
 - 7:330-E Exhibit - Application for Student Groups that Are Not School Sponsored to Request Free Use of School Premises for Meetings

Records

- 7:340 Student Records
 - 7:340-AP1 Administrative Procedure - School Student Records
 - 7:340-AP1, E1 Exhibit - Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records
 - 7:340-AP1, E2 Exhibit - Using a Photograph or Video Recording of a Student
 - 7:340-AP1, E3 Exhibit - Letter to Parents Concerning Military Recruiters and Postsecondary Institutions Receiving Student Directory Information
 - 7:340-AP1, E4 Exhibit - Frequently Asked Questions Regarding Military Recruiter Access to Students and Student Information
 - 7:340-AP1, E5 Exhibit - Biometric Information Collection Authorization
 - 7:340-AP2 Administrative Procedure - Storage and Destruction of School Student Records
 - 7:340-AP2, E1 Exhibit - Letter Containing Schedule for Destruction of Student Records

Students

School Admissions and Student Transfers To and From Non-District Schools 1

Age [Elementary or Unit Districts only]

To be eligible for admission, a child must be 5 years old on or before September 1 of that school term. ² A child entering first grade must be 6 years of age on or before September 1 of that school term. ³ Based upon an assessment of the child’s readiness, a child will be allowed to attend first grade if he or she attended a non-public preschool, continued his or her education at that school through kindergarten, was taught in kindergarten by an appropriately certified teacher, and will be 6 years old on or before December 31. ⁴ A child with exceptional needs who qualifies for special education services is eligible for admission at 3 years of age. ^{5 6}

Admission Procedure

All students must register for school each year on the dates and at the place designated by the Superintendent. Parents/guardians of students enrolling in the District for the first time must present:

1. A certified copy of the student’s birth certificate. If a birth certificate is not presented, the Superintendent or designee shall notify in writing the person enrolling the student that within 30 days he or she must provide a certified copy of the student’s birth certificate. A student

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 some of the subject matter contained in this sample policy to be covered by policy and controls this policy’s content. Boards must adopt a policy on school admissions (105 ILCS 5/10-21.2) and restricting a student from transferring from another school while under a suspension or expulsion from that school (105 ILCS 5/10-22.6).

² 105 ILCS 5/10-20.12. The district may, however, establish a kindergarten for children between the ages of 4 and 6 years old (105 ILCS 5/10-20.19a and 5/10-22.18). Any child between the ages of 7 and 17 (unless the child has already graduated from high school) must attend public or private school, with certain exceptions allowed for physical and mental disability, lawful employment, or other reasons as specified by statute (105 ILCS 5/26-1). The phrase “a child between the ages of 7 and 17” is liberally construed to fully carry out the true intent and meaning of the General Assembly (5 ILCS 70/1.01), which is to ensure that students graduate from high school (105 ILCS 5/26-1). Therefore “the ages of 7-17” means a child is 17 until his or her 18th birthday.

³ Optional sentence.

⁴ Required by 105 ILCS 5/10-20.12. Use the following alternative in a district operating on a full year school basis:

To be eligible for admission, a child must be at least 5 years old within 30 days after the commencement of that school term. Based upon an assessment of the child’s readiness, a child may attend first grade if he or she attended a non-public preschool and continued his or her education at that school through kindergarten, was taught in kindergarten by an appropriately certified teacher, and will attain age 6 within 4 months after the commencement of the term.

⁵ 105 ILCS 5/14-1.02 and 5/14-1.03a. An ISBE rule states: “Each school district shall be responsible for actively seeking out and identifying all children from birth through age 21 within the district (and those parentally-placed private school children for whom the district is responsible under 34 C.F.R. §300.131) who may be eligible for special education and related services,” (23 Ill.Admin.Code §226.100). Note that after a child is determined to be eligible for special education services, the child must be placed in the appropriate program no later than the beginning of the next school semester (105 ILCS 5/14-8.02(b)).

⁶ 105 ILCS 5/10-20.12. Districts that wish to permit early admission may add the following optional paragraph:

Parents/guardians may request early admission for a child. The Superintendent or designee shall assess the child’s readiness to attend school and make the decision accordingly.

Districts that implement this option should also consider implementing specific and objective criteria for early admissions and address such issues as who pays the costs for assessments, etc. Using this exception defeats the age requirement rules because it only relies upon a child’s readiness, regardless of his or her age.

will be enrolled without a birth certificate. ⁷ When a certified copy of the birth certificate is presented, the school shall promptly make a copy for its records, place the copy in the student's temporary record, and return the original to the person enrolling the child. If a person enrolling a student fails to provide a certified copy of the student's birth certificate, the Superintendent or designee shall immediately notify the local law enforcement agency, and shall also notify the person enrolling the student in writing that, unless he or she complies within 10 days, the case will be referred to the local law enforcement authority for investigation. If compliance is not obtained within that 10-day period, the Superintendent or designee shall so refer the case. The Superintendent or designee shall immediately report to the local law enforcement authority any material received pursuant to this paragraph that appears inaccurate or suspicious in form or content. ⁸

2. Proof of residence, as required by Board policy 7:60, *Residence*.
3. Proof of disease immunization or detection and the required physical examination, as required by State law and Board policy 7:100, *Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students*. ⁹

The individual enrolling a student shall be given the opportunity to voluntarily state whether the student has a parent or guardian who is a member of a branch of the U. S. Armed Forces and who is either deployed to active duty or expects to be deployed to active duty during the school year. ¹⁰ Students who are children of active duty military personnel transferring will be allowed to enter: (a)

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

⁷ Presenting a certified copy of a student's birth certificate is a missing children's law enforcement issue **that may not be used for denying enrollment**. See Guidance Documents subhead in 7:50-AP, School Admissions and Student Transfers To and From Non-District Schools, for more information about enrollment and residency issues. Consult the board attorney if a student cannot produce a certified copy of his or her birth certificate and wishes to provide a passport, visa or other governmental documentation of identity. To balance the tension between the missing children's laws reporting requirements and Plyler v. Doe, many attorneys advise not to report a student's failure to produce a birth certificate; however always consult the board attorney for assistance based upon the specific facts of the enrollment situation (see f/n 8 below).

⁸ Two almost identical laws govern this requirement: Missing Children Records Act (325 ILCS 50/) and Missing Children Registration Law (325 ILCS 55/). We reconciled their differences as much as possible but chiefly used the language from the Registration Law because it has the clearest explanation. The statutory enforcement requirements, as nonsensical as they may seem, are quoted in the policy. **Important:** Schools cannot deny admission based upon immigration (illegal) status alone. Note that singling out foreign-looking students for visa requests is probably illegal discrimination. See Plyler v. Doe, 102 S.Ct. 2382 (1982). See also f/n 12 below.

According to the State Police, a certified copy of the student's birth certificate is the only acceptable proof of the child's identity and age (20 Ill.Admin.Code §1290.60(a)). For more discussion about acceptable proof of identity, see f/n 1 in 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*. The Missing Children's Records Act requires schools to make prompt copies of these certified copies. Once made, schools need not request another certified copy with respect to that child for any other year in which the child is enrolled in that school or other entity. While the Act does not mandate where the copy should be kept, it is appropriate for placement in the student's temporary record. See 23 Ill.Admin.Code §375.10. The school person who receives the copy of the certified birth certificate should initial and date the document. That way, if there is a question or an investigation (which can happen even years after enrollment) there will not be an issue as to who received the document and the date it was processed.

A district must also *flag* a student's record on notification by the State police of the student's disappearance and report to the State police any request for a *flagged* student record.

⁹ Each school must maintain records for each student that reflect compliance with the examinations and immunizations required by 105 ILCS 5/27-8.1; 23 Ill.Admin.Code §1.530(a). A Tuberculosis skin test is required if the student lives in an area designated by the Dept. of Public Health as having a high incidence of Tuberculosis.

¹⁰ While this paragraph is optional, it states a requirement in 105 ILCS 5/22-65, ~~added by P.A. 97-505~~. Each school district must report this enrollment information as aggregate data to ISBE (Id.).

the same grade level in which they studied at the school from which they transferred, if the transfer occurs during the District's school year, or (b) the grade level following the last grade completed. 11

Homeless Children

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce records normally required for enrollment. 12 Board policy 6:140, *Education of Homeless Children*, and its implementing administrative procedure, govern the enrollment of homeless children.

Student Transfers To and From Non-District Schools 13

A student may transfer into or out of the District according to State law and procedures developed by the Superintendent or designee. A student seeking to transfer into the District must serve the entire term of any suspension or expulsion, imposed for any reason by any public or private school, in this or any other state, before being admitted into the School District.

Foreign Students [High School or Unit Districts only] 14

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

11 Optional sentence. 105 ILCS 70/33, added by P.A. 98-673, further details enrollment and entrance requirements for children of active military personnel. After enrollment, the law allows a district to perform evaluations to ensure appropriate placement of the student. Course, program, graduation, extracurricular(s), and other placement options for this student population are further discussed in 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*.

12 Required by 105 ILCS 45/ and the McKinney Homeless Assistance Act, 42 U.S.C. §11431 et seq., amended by the No Child Left Behind Act. See §11432(g)(3)(C)(i).

13 105 ILCS 5/2-3.13a requires each transferor (original) school to keep documentation of transfers in the student's record. It also requires "notification [by the transferee (recipient) school] of the transfer on or before July 31 following the school year during which the student withdraws from the transferor school or school district or the student shall be counted in the calculation of the transferor school's or school district's annual student dropout rate." ISBE rule, 23 Ill.Admin.Code §375.75(e), as amended on 1-24-2012, is consistent with this requirement. The amended rule also requires the transferring school or district to maintain any documentation of the student's transfer, including records indicating the school or school district to which the student transferred, in that student's temporary record.

Out-of-state transfer students, including children of military personnel, may use unofficial transcripts for admission to a school until official transcripts are obtained from the student's last school district (105 ILCS 5/10-8.1 & 70/32, added by P.A. 98-673). See also 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*.

A board has 2 basic options for students transferring into the district who are serving a suspension or expulsion. Under option one, it may comply with the minimum requirements of section 2-3.13a by refusing to allow a student transferring from any public school to attend classes until the period of any suspension or expulsion has expired when the penalty was for: (1) knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act, (2) knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis, or (3) battering a staff member of the school. Under option two, a board may require a student who was suspended or expelled for *any* reason from any public or private school in this or any other state to complete the entire term of the suspension or expulsion before being admitted to the school district. The sample policy uses the second, more simple, more comprehensive alternative.

A board may adopt a policy providing that if a student is suspended or expelled for any reason from any school, anywhere, the student must complete the suspension's or expulsion's entire term in an alternative school program under Article 13A or an alternative learning opportunities program under Article 13B before being admitted into the school district if there is no threat to the safety of students or staff in the alternative program (105 ILCS 5/2-3.13a; 5/10-22.6-amended by P.A. 97-495)(g). If a board wants to provide for this alternative, it may add the following to either of the above options:

The Superintendent is authorized to allow a student who was suspended or expelled from any public or private school to be placed in an alternative school program established under Article 13A of the School Code for the remainder of the suspension or expulsion.

14 Generally, a citizen of a foreign country who wishes to enter the U.S. must first obtain either: (1) a nonimmigrant visa (for temporary stay for tourism, medical treatment, business, temporary work, or study), or (2) an immigrant visa for permanent residence. Common visas presented by foreign students are:

The District accepts foreign exchange students with a J-1 visa and who reside within the District as participants in an exchange program sponsored by organizations screened by administration. Exchange students on a J-1 visa are not required to pay tuition. **15**

Privately sponsored exchange students on an F-1 visa may be enrolled if an adult resident of the District has temporary guardianship, and the student lives in the home of that guardian. Exchange students on an F-1 visa are required to pay tuition at the established District rate. **16** F-1 visa student admission is limited to high schools, and attendance may not exceed 12 months.

The Board may limit the number of exchange students admitted in any given year. Exchange students must comply with District immunization requirements. Once admitted, exchange students become subject to all District policies and regulations governing students.

-
1. J-1 nonimmigrant visas for participants in educational and cultural exchange programs designated by the U.S. Department of State, Exchange Visitor Program, and Designation Staff. These students are enrolled provided they otherwise qualify for admission. For information about J-1 visas and the Exchange Visitor Program, see j1visa.state.gov/programs.
 2. F-1 nonimmigrant student visa. F-1 visas are not issued for attendance at an elementary or middle school (K-8). Before obtaining an F-1 student visa, the individual must submit evidence that the school district has been reimbursed for the unsubsidized per capita cost of the education. These students are enrolled provided they otherwise qualify for admission. However, attendance at U.S. public high schools cannot exceed a total of 12 months.
 3. B-2 visitor nonimmigrant visas. There is disagreement over whether these students must be enrolled tuition free. Their *visitor* visa is evidence of non-resident status. Call INS or the district's attorney for guidance.
 4. The qualified school-age child of an alien who holds another type of visa (i.e., A, E, H, I, L, etc.), other than a visitor visa. These students are enrolled provided they otherwise qualify for admission. Likewise, dependents of foreign nationals on long-term visas are enrolled provided they otherwise qualify for admission.
 5. No immigration documentation. *Plyler v. Doe*, 102 S.Ct. 2382 (1982). A school cannot deny admission based upon immigration (illegal) status alone. Note that singling out foreign-looking students for visa requests is probably illegal discrimination. Thus, undocumented aliens are enrolled, provided they otherwise qualify for admission.
 6. Immigrant visa. These students are enrolled provided they otherwise qualify for admission.

The Student and Exchange Visitor Information System (SEVIS) is an Internet-based system that provides tracking and monitoring, with access to accurate and current information on nonimmigrant students (F and M visas) and exchange visitors (J visa), and their dependents (F-2, M-2, and J-2). See §641, Illegal Immigration Reform and Immigrant Responsibility Act. Section 641 is an exception to the Family Educational Rights and Privacy Act. See 8 C.F.R. §214.1(h). SEVIS enables schools and program sponsors to transmit electronic information and event notifications, via the Internet, to the INS and Department of State throughout a student's or exchange visitor's stay. SEVIS will provide system alerts, event notifications, and reports to the end-user schools and programs, as well as for INS and DOS offices.

According to federal regulations, students who apply for F-1, M-1, F-3, or M-3 visas must pay a \$100 fee, and students who apply for J-1 visas must pay a \$35 fee, to the Department of Homeland Security. The regulations describe when and how the fee is to be paid, who is exempt from the fee, and the consequences for failure to pay (8 C.F.R. Parts 103, 214, and 299).

Important: Admitting students on an F-1 visa may require the district to admit students transferring from another district under NCLBA's school choice provisions. See policy 7:60, *Residence*.

15 State law allows, but does not require, boards to waive nonresident tuition for these students (105 ILCS 5/10-22.5a).

16 Exchange students on F-1 visas must pay the full-unsubsidized public education costs before entering the U.S. (8 U.S.C. §1101). Boards may not waive the fee.

Re-enrollment ¹⁷ [*High School or Unit Districts only*]

Re-enrollment shall be denied to any individual 19 years of age or above who has dropped out of school and who could not earn sufficient credits during the normal school year(s) to graduate before his or her 21st birthday. However, at the Superintendent's or designee's discretion and depending on program availability, the individual may be enrolled in a graduation incentives program established under 105 ILCS 5/26-16 or an alternative learning opportunities program established under 105 ILCS 5/13B-1 (see 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*). Before being denied re-enrollment, the District will offer the individual due process as required in cases of expulsion under policy 7:210, *Expulsion Procedures*. A person denied re-enrollment will be offered counseling and be directed to alternative educational programs, including adult education programs that lead to graduation or receipt of a GED diploma. This section does not apply to students eligible for special education under the Individuals with Disabilities Education Improvement Act or accommodation plans under the Rehabilitation Act, Section 504.

LEGAL REF.: McKinney Homeless Assistance Act, 42 U.S.C. §11431 et seq.
Family Educational Rights and Privacy Act, 20 U.S.C. §1232.
Illegal Immigrant and Immigrant Responsibility Act of 1996, 8 U.S.C. §1101.
Individuals With Disabilities Education Improvement Act, 20 U.S.C. §1400 et seq.
Rehabilitation Act, Section 504, 29 U.S.C. §794.
105 ILCS 5/2-3.13a, 5/10-20.12, 5/10-22.5a, 5/14-1.02, 5/14-1.03a, 5/26-1, 5/26-2,
5/27-8.1, 10/8.1, 45/, and 70/.
325 ILCS 50/ and 55/.
410 ILCS 315/2e.
20 Ill.Admin.Code Part 1290, Missing Person Birth Records and School
Registration.
23 Ill.Admin.Code Part 375, Student Records.

CROSS REF.: 6:30 (Organization of Instruction), 6:110 (Programs for Students At Risk of
Academic Failure and/or Dropping out of School and Graduation Incentives
Program), 6:140 (Education of Homeless Children), 6:300 (Graduation
Requirements), 6:310 (High School Credit for Alternative Courses and Programs,
and Non-District Experiences; Course Substitutions; Re-Entering Students), 7:60
(Residence), 7:70 (Attendance and Truancy), 7:100 (Health, Eye, and Dental
Examinations; Immunizations; and Exclusion of Students), 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.

¹⁷ 105 ILCS 5/26-2(b). The requirements in this section are provided in State law, that is: (1) it is mandatory that a district deny re-enrollment as provided in this section, (2) it is permissive whether to enroll the individual in a district graduation incentives program or alternative learning opportunities program (although depending on circumstances, a student below the age of 20 may be entitled to enroll in a graduation incentives program), (3) it is mandatory to provide due process before denying re-enrollment, (4) it is mandatory to offer the individual who is denied re-enrollment counseling and to direct that person to alternative educational programs, and (5) it is mandatory that this section not apply to students eligible for special education.

105 ILCS 5/26-2(c) allows a district to deny enrollment to a student 17 years of age or older for one semester for failure to meet minimum academic or attendance standards if certain conditions are met. See policy 7:70, *Attendance and Truancy*.

Students

Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students 1

Required Health Examinations and Immunizations

A student’s parent(s)/guardian(s) shall present proof that the student received a health examination ~~and, with proof of~~ the immunizations against, and screenings for, preventable communicable diseases, as required by the Illinois Department of Public Health, within one year prior to:

1. Entering kindergarten or the first grade; ~~2~~
2. Entering the sixth and ninth grades; ~~3~~ and
- ~~3.~~ 3. Enrolling in an Illinois school, regardless of the student’s grade (including nursery school, special education, ~~Head Start~~ programs operated by elementary or secondary schools, and students transferring into Illinois from out-of-state or out-of-country). ~~4~~

Proof of immunization against meningococcal disease is required from students in grades 6 and 12, beginning with the 2015-2016 school year. 5

As required by State law:

1. Health examinations must be performed by a physician licensed to practice medicine in all of its branches, an advanced practice nurse who has a written collaborative agreement with a collaborating physician authorizing the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the performance of health examinations by a supervising physician. ~~6~~
2. A diabetes screening must be included as a required part of each health examination; diabetes testing is not required. ~~7~~

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

~~1 State or federal law controls this policy’s content. The policy restates 105 ILCS 5/27-8.1. Immunization requirements are found in 77 Ill.Admin.Code §665.240. A Tuberculosis skin test is required if the student lives in an area designated by the Dept. of Public Health as having a high incidence of Tuberculosis. See also “Questions & Answers Regarding School Health Record Issues,” revised 9/2011, and available at: www.dhs.state.il.us/page.aspx/%20/intranet.dhs/oneweb/page.aspx?item=32907.~~

~~2 77 Ill.Admin.Code §§665.140 and 665.240 et seq. For the 2008-2009 school year only, a health examination conducted from August 2006 through September 2007 (for a child who was entering fifth grade for the 2007-2008 school year) was deemed to meet the requirements of 105 ILCS 5/27-8.1.~~

~~3 Id. and 105 ILCS 5/27-8.1.~~

~~4 77 Ill.Admin.Code §665.140. If grade levels are not assigned, examinations must be completed within one year prior to the school year in which the child reaches the ages of 5, 11, and 15 (Id.).~~

~~5 77 Ill.Admin.Code §665.140. If 240(j) & 77 Ill.Admin.Code §695.10(m), amended on 8-26-14. For students attending school programs where grade levels (kindergarten through 12) are not assigned, examinations including special education programs, students must be completed within show proof that they have received one year prior to dose of meningococcal conjugate vaccine in the school year in which the child reaches age 11 and a second dose in the school year in which the child reaches the ages of 5, 11, and 15 (Id.); age 16 (but if the first dose is administered when the child is 16 years of age or older, only one dose is required).~~

~~6 105 ILCS 5/27-8.1; 77 Ill.Admin.Code §665.130 et seq.~~

~~7 105 ILCS 5/27-8.1; 77 Ill.Admin.Code §665.700 et seq.~~

3. Before admission and in conjunction with required physical examinations, parents/guardians of children between the ages of 6 months and 6 years must provide a statement from a physician that their child was “risk-assessed” or screened for lead poisoning. **8**
4. The Department of Public Health will provide all female students entering sixth grade and their parents/guardians information about the link between human papilloma virus (HPV) and cervical cancer and the availability of the HPV vaccine. **9**

Unless an exemption or extension applies, the failure to comply with the above requirements by October 15 of the current school year will result in the student’s exclusion from school until the required health forms are presented to the District. **10** New students who register after October 15 of the current school year shall have 30 days following registration to comply with the health examination and immunization regulations. **11** If a medical reason prevents a student from receiving a required immunization by October 15, the student must present, by October 15, an immunization schedule and a statement of the medical reasons causing the delay. **12** The schedule and statement of medical reasons must be signed by the physician, advanced practice nurse, physician assistant, or local health department responsible for administering the immunizations.

~~Until June 30, 2015,~~ A student transferring from out-of-state who does not have the required proof of immunizations by October 15 may attend classes only if he or she has proof that an appointment for the required vaccinations is scheduled with a party authorized to submit proof of the required vaccinations. **13** If the required proof of vaccination is not submitted within 30 days after the student is permitted to attend classes, the student may no longer attend classes until proof of the vaccinations is properly submitted. **14**

Eye Examination **15**

Parents/guardians are encouraged to have their children undergo an eye examination whenever health examinations are required. **16**

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

8 Required by 410 ILCS 45/7.1. Physicians are required to screen children over 6 years of age for lead poisoning when, in the physician’s judgment, a child is at risk (410 ILCS 45/6.2).

9 This sentence restates the requirement in the Communicable Disease Prevention Act regarding cervical cancer prevention (410 ILCS 315/2e).

10 105 ILCS 5/27-8.1(~~5, amended by P.A. 97-216~~) requires compliance by October 15 unless a district establishes an earlier date with 60 days notice. If an earlier date is established, replace “October 15” in this paragraph with the earlier locally established date. During any student’s exclusion from school for non-compliance with this policy, the student’s parents/guardians shall be considered in violation of 105 ILCS 5/26-1 and subject to any penalty imposed by 105 ILCS 5/26-10, as provided in 105 ILCS 5/27-8.1, ~~amended by P.A. 97-216.~~

11 This sentence is optional. The timeframe of 30 days is a matter of local discretion except that out-of-state transfer students who fail to provide proof of the required vaccinations after 30 days must be excluded until such proof is properly submitted (105 ILCS 5/27-8.1(~~5, amended by P.A. 96-953~~)). Consult the board attorney about establishing timeframes other than 30 days.

12 This sentence and the following sentence restate 105 ILCS 5/27-8.1(~~5, amended by P.A. 97-216~~).

13 ~~Id. P.A. 97-216 changed the expiration year for special treatment of out-of-state transfer students to June 30, 2015.~~ The special treatment of out-of-state transfer students resulted from the enactment of the Educational Opportunity for Military Children Act, 105 ILCS 70/ ~~added by P.A. 96-953.~~ There are no more sunset dates in this law, which eliminates its constituents’ need to continually revisit the law and extend its effective dates.

14 105 ILCS 5/27-8.1, amended by P.A. 97-216.

15 Required by 105 ILCS 5/27-8.1(1.10) and (2). The IDPH’s rules are published at 77 Ill.Admin.Code §665.610 et seq. §665.150 and 630 prescribe the statewide eye examination report form. It is available at:

www.idph.state.il.us/HealthWellness/EyeExamReport.pdf or 77 Ill.Admin.Code §665, Appendix A.

Parents/guardians of students entering kindergarten or an Illinois school for the first time shall present proof before October 15 of the current school year that the student received an eye examination within one year prior to entry of kindergarten or the school. A physician licensed to practice medicine in all of its branches or a licensed optometrist must perform the required eye examination.

If a student fails to present proof by October 15, the school may hold the student's report card until the student presents proof: (1) of a completed eye examination, or (2) that an eye examination will take place within 60 days after October 15. The Superintendent or designee shall ensure that parents/guardians are notified of this eye examination requirement in compliance with the rules of the Department of Public Health. Schools shall not exclude a student from attending school due to failure to obtain an eye examination.

Dental Examination 17

All children in kindergarten and the second and sixth grades must present proof of having been examined by a licensed dentist before May 15 of the current school year in accordance with rules adopted by the Illinois Department of Public Health.

If a child in the second or sixth grade fails to present proof by May 15, the school may hold the child's report card until the child presents proof: (1) of a completed dental examination, or (2) that a dental examination will take place within 60 days after May 15. The Superintendent or designee shall ensure that parents/guardians are notified of this dental examination requirement at least 60 days before May 15 of each school year.

Exemptions 18

In accordance with rules adopted by the Illinois Department of Public Health, a student will be exempted from this policy's requirements for:

1. Religious or medical grounds if the student's parents/guardians present to the Superintendent a signed statement explaining the objection;
2. Health examination or immunization requirements on medical grounds if a physician provides written verification;
3. Eye examination requirement if the student's parents/guardians show an undue burden or lack of access to a physician licensed to practice medicine in all of its branches who provides eye examinations or a licensed optometrist; or
4. Dental examination requirement if the student's parents/guardians show an undue burden or a lack of access to a dentist.

16 While 105 ILCS 5/27-8.1 requires eye examinations for students entering kindergarten or an Illinois school for the first time, it still encourages parent(s)/guardian(s) to have their children undergo eye examinations at the same points in time as their required health examinations. The IDPH must require that individuals conducting vision screenings give a child's parent/guardian a written notification stating:

Vision screening is not a substitute for a complete eye and vision evaluation by an eye doctor. Your child is not required to undergo this vision screening if an optometrist or ophthalmologist has completed and signed a report form indicating that an examination has been administered within the previous 12 months.

17 Required by 105 ILCS 5/27-8.1(1.5). The IDPH's rules are published at 77 Ill.Admin.Code §665.410 et seq. §665.150 and 430 prescribe the statewide dental examination report form. It is available at: www.idph.state.il.us/HealthWellness/oralhlth/DentalExamProof.pdf.

18 Id. and 105 ILCS 5/27-8.1(1.10).

Homeless Child

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce immunization and health records normally required for enrollment. ¹⁹ School Board policy 6:140, *Education of Homeless Children*, governs the enrollment of homeless children.

LEGAL REF.: McKinney Homeless Assistance Act, 42 U.S.C. §11431 et seq.
105 ILCS 5/27-8.1 and 45/1-20.
410 ILCS 45/7.1 and 315/2e.
23 Ill.Admin.Code §1.530.
77 Ill.Admin.Code Part 665.
77 Ill.Admin.Code Part 695.

CROSS REF.: 6:30 (Organization of Instruction), 6:140 (Education of Homeless Children),
6:180 (Extended Instructional Programs), 7:50 (School Admissions and Student
Transfers To and From Non-District Schools)

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

¹⁹ Required by 105 ILCS 45/1-20 (Education for Homeless Children Act). Also required by the McKinney Homeless Assistance Act, 42 U.S.C. §1142(g)(3)(C)(i).

Students

Bus Conduct 1

All students must follow the District's School Bus Safety Guidelines. The Superintendent, or any designee as permitted in the School Code, is authorized to suspend a student from riding the school bus for up to 10 consecutive school days for engaging in gross disobedience or misconduct, including but not limited to, the following:

1. Prohibited student conduct as defined in School Board policy, 7:190, *Student Discipline*.
2. Willful injury or threat of injury to a bus driver or to another rider.
3. Willful and/or repeated defacement of the bus.
4. Repeated use of profanity.
5. Repeated willful disobedience of a directive from a bus driver or other supervisor.
6. Such other behavior as the Superintendent or designee deems to threaten the safe operation of the bus and/or its occupants.

If a student is suspended from riding the bus for gross disobedience or misconduct on a bus, the School Board may suspend the student from riding the school bus for a period in excess of 10 days for safety reasons. The District's regular suspension procedures shall be used to suspend a student's privilege to ride a school bus. ²

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

¹ All districts must have a policy on student discipline (105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280). State law requires the parent-teacher advisory committee, in cooperation with school bus personnel, to develop with the board, school bus safety procedures (105 ILCS 5/10-20.14(c)). See 4:110-AP3, *School Bus Safety Rules*.

² 7:200, *Suspension Procedure*, satisfies the procedural requirements in 105 ILCS 5/10-22.6(b).

Electronic Recordings on School Buses ³

Electronic visual and audio recordings may be used on school buses to monitor conduct and to promote and maintain a safe environment for students and employees when transportation is provided for any school related activity. Notice of electronic recordings shall be displayed on the exterior of the vehicle's entrance door and front interior bulkhead in compliance with State law and the rules of the Illinois Department of Transportation, Division of Traffic Safety.

Students are prohibited from tampering with electronic recording devices. Students who violate this policy shall be disciplined in accordance with the Board's discipline policy and shall reimburse the School District for any necessary repairs or replacement.

LEGAL REF.: Family Educational Rights and Privacy Act, 20 U.S.C. §1232g; 34 C.F.R. Part 99.105 ILCS 5/10-20.14, 5/10-22.6, and 10/.720 ILCS 5/14-3(m).
23 Ill.Admin.Code Part 375, Student Records.

CROSS REF.: 4:110 (Transportation), 4:170 (Safety), 7:130 (Student Rights and Responsibilities), 7:170 (Vandalism), 7:190 (Student Discipline), 7:200 (Suspension Procedures), 7:340 (Student Records)

ADMIN. PROC.: 4:110-AP3 (School Bus Safety Rules)

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

³ This section is optional; it contains the statutory prerequisites for districts that want to use electronic audio and visual recording devices on school buses (720 ILCS 5/14-3(m)). These required prerequisites are contained in an exception to the criminal eavesdropping statute that prohibits recording a conversation without the consent of all parties. Two Ill. Supreme Court decisions declared the criminal eavesdropping statute to be unconstitutionally overbroad in violation of the first amendment. People v. Melongo, 6 N.E.3d 120 (2014), and People v. Clark, 6 N.E.3d 154 (2014). The enforceability of the statute containing exceptions to a crime that no longer exists is questionable until the General Assembly amends the criminal eavesdropping statute to correct its deficiency.

Anticipating that the criminal eavesdropping statute will be legislatively corrected, districts may wish to continue following the requirements in the statutory exceptions. These require (1) the school board to adopt a policy authorizing electronic recordings, and (2) the district to provide notice as provided in the sample policy.

The board should consult with the board attorney concerning the status of video and/or audio recordings that were made on school buses. Confusion surrounds whether or not videotapes are *education records* for purposes of the federal Family Education Rights and Privacy Act (FERPA) and/or *school student records* as defined in the Ill. School Student Records Act (105 ILCS 10/). The Ill. State Board of Education (ISBE) considerably reduced the confusion by stating in its rule that *school student records* do not include video or other electronic recordings "created at least in part for law enforcement or security or safety reasons or purposes," (23 Ill.Admin.Code §375.10). ISBE rules also specify that: (1) electronic recordings made on school buses, as defined in the exemption from the criminal offense of eavesdropping in 720 ILCS 5/14-3, are not *school student records*, (Id.) and (2) no image on a school security recording may be designated as directory information (23 Ill.Admin.Code §375.80). This treatment exempts school bus videos from the multiple requirements in the Ill. School Student Records Act. However, when responding to a request under the Freedom of Information Act for recordings on school buses, a district will need to find an exemption other than the recording is a *school student record*.

Students

Administering Medicines to Students ¹

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" 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. ²

Self-Administration of Medication ³

A student may possess an epinephrine auto-injector (EpiPen®) and/or asthma medication prescribed for ~~asthma for immediate~~ 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. ⁴ 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.

¹ 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).

² 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.

³ 105 ILCS 5/22-30, as amended by P.A. ~~96-1460~~ 98-795, 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 ~~carry and~~ 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.

⁴ 105 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. 5

School District Supply of Epinephrine Auto-Injectors

School District Supply of **Undesignated** Epinephrine Auto-Injectors 6

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,7 may administer an undesignated epinephrine auto-injector to a person when they, in good faith, believe a person is having an anaphylactic reaction.

This 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 ~~school~~ **undesignated** epinephrine auto-injectors ~~and a standing protocol~~ 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. 8

Upon any administration of an undesignated epinephrine auto-injector, the Superintendent or designee(s) must ensure all notifications required by State law and administrative procedures occur. 9

Upon implementation of this ~~subsection and Section 22-30(f) of the School Code 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. This policy does not guarantee the availability of an

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

5 105 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.

6 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(~~f~~), amended by P.A. ~~97-364~~ 98-795. The law permits a district to maintain a supply of **undesignated** epinephrine auto-injectors in a ~~locked~~, any secure location where an allergic person is at risk and use them when necessary. ~~However, obtaining this prescription may be difficult or impossible.~~ 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 ~~are~~ may be fraught with legal liabilities ~~and issues~~.

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.

7 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), amended by P.A. 98-795). ISBE must develop the training curriculum for trained personnel, and it may be conducted online or in person (Id. at (h)).

8 Discuss with the board attorney whether the board should remove this sentence when the district reaches full implementation of this section.

9 105 ILCS 5/22-30, amended by P.A. 98-795 details specific required notifications, which are listed in 7:270-AP2, *Checklist for District Supply of Undesignated Epinephrine Auto-Injectors*.

epinephrine auto-injector; students and their parents/guardians should consult their own physician regarding this medication.

LEGAL REF.: 105 ILCS 5/10-20.14b, 5/10-22.21b, and 5/22-30.

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), 7:270-E (School Medication Authorization Form)

Community Relations

Community Use of School Facilities 1

School facilities are available to community organizations during non-school hours when such use does not: (1) interfere with any school function or affect the safety of students or employees, or (2) affect the property or liability of the School District. The use of school facilities for school purposes has precedence over all other uses. The District reserves the right to cancel previously scheduled use of facilities by community organizations and other groups. The use of school facilities requires the prior approval of the Superintendent or designee and is subject to applicable procedures. 2

Persons on school premises must abide by the District’s conduct rules at all times. 3

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

1 State or federal law controls this policy’s content. If a board wants to allow community organizations to use school facilities, it must adopt a policy (105 ILCS 5/10-20.40). The policy must “prohibit such use if it interferes with any school functions or the safety of students or school personnel or affects the property or liability of the school district.” This policy may be implemented using 8:20-E, *Exhibit - Application and Procedures for Use of School Facilities*. A board should discuss the implications of any access to school facilities policy with its attorney.

This policy concerns an area that is frequently litigated because of its many complex legal and practical issues. The Constitution’s Free Speech and Equal Protection Clauses, as well as the Equal Access Act, are triggered. As a general rule, school officials can avoid constitutional problems and still open facilities to community groups by treating requests to use school facilities according to uniform rules that do not discriminate against a group on the basis of its viewpoint.

Of course, a board may avoid constitutional controversy over community use of its facilities by refusing to permit such use by all non-school groups (thereby creating a closed forum). A board may also avoid triggering the constitutional clauses and the Equal Access Act by allowing all non-school groups to use of its facilities (thereby creating an open forum). If the board creates an open forum, it may still impose reasonable time, place, and manner restrictions on the use as long as the restrictions are the same for all groups. However, practically speaking, it is difficult for a board to either completely close its facilities to non-school groups or to open its facilities to all non-school groups. Most boards decide to create a limited open forum.

This policy creates a limited open public forum by allowing public use of school facilities provided the use is consistent with the public interest. See Widmar v. Vincent, 454 U.S. 263 (1981). A public school district may not discriminate on the basis of a group’s purpose, message, or goal. Thus, any restrictions on the use by non-school groups must not discriminate against speech on the basis of viewpoint. Lamb’s Chapel v. Center Moriches Union Free School District, 113 S.Ct. 2141 (1993); Good News Club v. Milford Central School, 121 S.Ct. 2093 (2001). A board must show neutrality to all viewpoints.

A board runs afoul of showing viewpoint neutrality if it prohibits single sex youth organizations, even those that discriminate against homosexuals, to use school facilities. Note the U.S. Supreme Court refused to apply the N.J.’s public accommodation law to the Boy Scouts because forcing the Scouts to accept a homosexual as a member would violate the Scout’s freedom of expressive association. Boy Scouts of America v. Dale, 120 S.Ct. 2446 (2000).

This constitutional jurisprudence was codified as §9525 of the No Child Left Behind Act of 2001 (20 U.S.C. §7905). Schools are prohibited from denying equal access to school facilities to the Boy Scouts or any other youth group “for reasons based on membership or leadership criteria or oath of allegiance to God and country.”

See sample policy 7:330, *Student Use of Buildings-Equal Access*, for a discussion of the Equal Access Act, 20 U.S.C. §4071 et seq.

2 However, at the request of election officers, any publicly owned building must be made available for use as a polling place (10 ILCS 5/~~49-2.2~~ 11-4.1 and 5/19-2.2). For the day of the election, a school district is encouraged to (a) close the school, or (b) hold a teachers institute on that day with students not in attendance (10 ILCS 5/11-4.1, amended by P.A. 98-773). Election officers must place markers 100 horizontal feet from a polling room’s voter entrance and, if the 100 feet marker ends within the building’s interior, the markers must be placed outside of the building at each entrance used by voters. The area within where the markers are placed is a campaign free zone where electioneering is prohibited. The area on polling place property beyond the campaign free zone is a public forum for the time that the polls are open on an election day and may be used for campaigning and to place temporary signs (Id.). A child sex offender is permitted to vote early or by absentee ballot when his or her polling place is a school (10 ILCS 5/11-4.1).

3 See policy 8:30, *Visitors to and Conduct on School Property*.

Student groups, school-related organizations, government agencies, and non-profit organizations are granted the use of school facilities at no costs during regularly staffed hours. ⁴ Fees and costs shall apply during non-regularly staffed hours and to other organizations granted use of facilities at any time. ⁵ A fee schedule and other terms of use shall be prepared by the Superintendent and be subject to annual approval by the School Board.

- LEGAL REF.: 20 U.S.C. §7905.
10 ILCS 5/19-2.2.
105 ILCS 5/10-20.40, 5/10-22.10, and 5/29-3.5.
Good News Club v. Milford Central School, 121 S.Ct. 2093 (2001).
Lamb’s Chapel v. Center Moriches Union Free School District, 113 S.Ct. 2141 (1993).
Rosenberger v. Rector and Visitors of Univ. of Va., 515 U.S. 819 (1995).
- CROSS REF.: 7:330 (Student Use of Building - Equal Access), 8:25 (Advertising and Distributing Materials in Schools Provided by Non-School Related Entities), 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.

⁴ The decisions concerning facility-use fees are at the local board’s discretion. However, the general rule applies: school officials can avoid constitutional problems by treating requests to use school facilities according to uniform rules that do not discriminate against a group on the basis of its viewpoint.

⁵ This option adds an additional restriction: “Facilities and grounds will not be made available to individuals for personal or social reasons or to business enterprises for commercial gain.”

This option recognizes that districts should require bodily injury liability insurance and property damage liability in specified amounts as recommended by the district’s own insurance carrier: “All non-school sponsored groups, before using the facilities during non-regularly staffed hours, must provide a certificate of insurance naming the District as an *additional insured* or otherwise show proof of insurance.”