

# Update Memo

# PRESS

## Policy Reference Education Subscription Service

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### Instructions

You are encouraged to share this **PRESS** Update Memo with all board members and appropriate staff. It may be viewed and downloaded from **PRESS Online**: [iasb.com/policy/login.cfm](http://iasb.com/policy/login.cfm). Subscribers are mailed the current password with each **PRESS** issue.

Two other important components of **PRESS** may be viewed and downloaded from **PRESS Online** – the committee worksheets and the updated Policy Reference Manual pages. The committee worksheets show suggested changes to **PRESS** material (including administrative procedures and exhibits) by striking out deleted words and underscoring new words. The updated Policy Reference Manual pages contain all of the material in this **PRESS** issue; you can use them to update your district manuals.

This publication is designed to provide information only and is not a substitute for legal advice from the school board's legal counsel. If you have any questions, please contact Melinda Selbee, IASB General Counsel and **PRESS** Editor, 630/629-3776, ext. 1231, or Kimberly Small, Assistant General Counsel and Assistant **PRESS** Editor, 630/629-3776, ext. 1226.

**Please note:** Unless otherwise stated, all public acts are currently effective.

### School Board

► **2:140, Communications To and From the Board.** The policy, footnotes, and Legal References are updated in response to 50 ILCS 205/20, added by P.A. 98-930, eff. 1-1-2015. 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." This must be done within 90 days of 1-1-2015. The following provision is added to implement this law:

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. 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.

This language may be used even when the district provides each board member an individual email 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.

An alternative is provided for districts that do not maintain an Internet website.

Board members must be careful to avoid violating the Open Meetings Act when replying to a constituent's email. Likewise, they must be careful to abide by the provision in their oath of office stating 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." These issues are addressed in the footnotes.

► **2:140-E, Guidance for Board Member Communications, Including Email Use.** The exhibit is updated in response to an appellate court decision in City of Champaign v. Madigan, 992 N.E.2d 629 (Ill.App.4th, 2013). That decision addresses the circumstances when emails sent or received by individual members of a public body will be a *public record* and, thus, subject to disclosure under FOIA, barring an applicable exemption. This guidance is discussed in a new section of this exhibit titled: **When Must the Electronic Communications Sent or Received by Individual Board Members Be Disclosed Pursuant to a Freedom of Information Act (FOIA) Request?** Specific examples of FOIA's treatment of electronic communications from the decision are described in the exhibit as follows:

1. If an electronic communication does not pertain to public business, it is not a public record and is not subject to a FOIA request.
2. An electronic communication pertaining to public business that is:
  - a. Sent and/or received by an individual Board member using a personal electronic device and personal email address while he or she is at home or work would not be a public record. Individual Board members, alone, cannot conduct school District business. As stated earlier, emails among a majority or more of a Board-quorum violate the Open Meetings Act and, thus, are subject to disclosure during proceedings to enforce the Open Meetings Act.

- b. Sent and/or received by an individual Board member on a District-issued device or District-issued email address will be a public record and subject to FOIA. The electronic communication is under the control of the District.
- c. Received by an individual Board member on a personal electronic device and then forwarded by the Board member to a District-owned device or server will be a public record and subject to FOIA. The electronic communication is under the control of the District.
- d. Received by an individual Board member using a personal electronic device and personal email address, and then forwarded by the Board member to enough members to constitute a majority or more of a Board-quorum will be a public record and subject to FOIA. The electronic communication is in the District's possession.
- e. Either sent to or from a Board member's personal electronic device during a Board meeting will be a public record and subject to FOIA. The electronic communication is in the District's possession because Board members were functioning collectively as a public body.

► **2:250-E2, Exhibit — Immediately Available District Public Records and Web-Posted Reports and Records.** The following new requirements for web-posting are added to this exhibit:

1. "A hyperlink to an email address(es) for members of the public to communicate with the members of the Board," required by 50 ILCS 205/20, added by P.A. 98-930, eff. 1-1-2015 (must be done within 90 days of 1-1-2015).
2. "Board policy, 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*," required by 105 ILCS 5/27-23.7(b)(10) & (11), amended by P.A. 98-669.
3. "Information developed as a result of the evaluation and assessment of the bullying policy's outcomes and effectiveness," required by 105 ILCS 5/27-23.7(b)(10) & (11), amended by P.A. 98-669.

Other nonsubstantive edits are made to increase clarity.

## Operational Services

► **4:10, Fiscal and Business Management.** A footnote in the policy is updated in response to indicate that P.A. 98-131 extended the time period during which a district may transfer money from specified funds for any purpose to July 1, 2016.

### Ill. Office of the Comptroller (IOC) Local Debt Recovery Program for School Districts

As we reported in **PRESS** Issue 86's *Progress Report*, in an effort for the State of Illinois' Local Debt Recovery Program to assist school districts, a series of helpful discussions occurred between the Ill. Office of the Comptroller (IOC), IASB, and a group of lawyers from the Ill. Council of School Attorneys who specialize in representing the interests of local school boards.

This group highlighted the complexities school districts face in recovering debt owed to them, particularly with respect to fee waiver eligibility, and will strive to continue collaborating around these issues. The IOC is committed to working with the educational professionals and counsel with an eye toward a possible partnership in recovering unpaid debt for school districts around the State.

To assist school districts in possibly entering the IOC's Local Debt Recovery Program, we have amended the following local debt recovery materials. Remember, though, that adopting any of the following materials will not ensure entry into the IOC's Local Debt Recovery Program, nor does adopting policy 4:45, *Insufficient Fund Checks and Debt Recovery* enroll a school district in the IOC's Local Debt Recovery Program. An Intergovernmental Agreement (IGA) between the IOC and your school district is required. Contact your school board attorney for legal advice about any possible entry into the IOC's Local Debt Recovery Program.

► **4:45, Insufficient Fund Checks and Debt Recovery.** The policy is updated in response to feedback and to clarify language in the **Delinquent Debt Recovery** subhead (see discussion above). Several footnotes were amended and added.

1. Based upon subscriber feedback, we added flexibility for the superintendent and his or her designee(s) in the first sentence: "The Superintendent or designee is responsible for collecting up to the maximum fee authorized by State law for returned checks..." We amended its footnote to identify possible legal issues with this flexibility. We also added an option to continue charging the maximum fee allowed by law, which is the policy's former default language.

2. The amended text in the **Delinquent Debt Recovery** subhead should only be used if a board has interest in entering the IOC's Local Debt Recovery Program (discussed above). The new text clarifies the following issues that districts need to address to set themselves up for a possible entry into the IOC's Local Debt Recovery Program:

- a. Intergovernmental agreements (IGAs): A district must have an IGA with the IOC to participate in its Local Debt Recovery Program.
  - b. Due process: A district should be able to point to some type of uniform district-wide due process method to (1) notify individuals and entities of their delinquent debts, and (2) allow individuals and entities to challenge their debts before a referral to the IOC.
  - c. Waiver of student fees: When a waiver of student fees is requested as a challenge to delinquent debt, the district must follow its *Waiver of Student Fees* policy and it should not refer these debts to the IOC until after the district's fee waiver policy is followed.
3. For boards that have no interest in the IOC's Local Debt Recovery Program, a new footnote explains that there are other methods 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 enter the IOC's Local Debt Recovery Program, the IOC language in the policy should be deleted.

► **4:45-AP2, Administrative Procedure — Local Debt Recovery Program Implementation Procedures. NEW.**

Through discussions with various stakeholders to the IOC debt recovery process, we discovered that many individual school buildings within a school district are providing varying degrees of due process within the same district. This procedure addresses this due process issue by providing information about implementing a uniform district-wide delinquent debt recovery procedure. Implementing this procedure should involve the board attorney, along with the superintendent and building principals, who are all necessary links to a school district's successful entry into the IOC's Local Debt Recovery Program.

► **4:45-E1, Exhibit - Cover Page Documenting the Process to Seek Offset from the Illinois Office of the Comptroller.** We amended the name of this procedure to align with how IOC refers to itself. We updated the document, which serves as a cover page to communicate what steps a district took to provide due process to an individual or entity before referring a claim through the IOC's Local Debt Recovery Program.

► **4:45-E2, Exhibit — Notice of Claim and Intent to Seek Debt Recovery; Challenge; and Response to Challenge.**

We amended this exhibit to align with the discussions prior to and in 4:45, *Insufficient Fund Checks and Debt Recovery* (above). Most significantly, information about managing requests for waivers of student fees as a challenge to delinquent debt is added. Again, claims for delinquent debt involving a request for a fee waiver as a challenge to the debt should not be referred to the IOC until a district's fee waiver process is followed.

► **4:110, Transportation.** The underscored words are added to the policy to align it with State statute:

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) ...

The footnotes now include the statutory definition of *cellular radio telecommunication device*, i.e.: "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, [a cell phone]." Other nonsubstantive updates are made in the footnotes.

► **4:120, Food Services.** The policy, footnotes, and Legal References are updated to comply with the new U.S. Dept. of Agriculture's *Smart Snacks* rules (7 C.F.R. Parts 210 and 220) and the Ill. State Board of Education's (ISBE's) rule 23 Ill.Admin.Code Part 305, which implements the *Smart Snacks* rules. These rules are further discussed below in 4:120-AP, *Food Services; Competitive Foods; Exemptions*.

► **4:120-AP, Administrative Procedure — Food Services; Competitive Foods; Exemptions.**

This procedure is renamed and rewritten to comply with the new U.S. Dept. of Agriculture's *Smart Snacks* rules. Those rules directed ISBE to promulgate rules that allow schools to hold exempted fundraising days to sell competitive foods to students at school. It defines competitive foods and exempted fundraising days, and it lists the number of exempted fundraising days for each grade level. The last section discusses how to request exempted fundraising days, and it explains the recordkeeping requirements for granted exempted fundraising days. A Legal Reference is updated with the amended *Smart Snacks* rule's new title.

Note that the current ISBE rules are *emergency rules*. They will expire before the New Year. It is possible that the number of exempted fundraising days in this procedure may change with the final rule. A link is provided for users to check for the final rules and adjust the procedure's limitations, if necessary.

► **4:130, Free and Reduced-Price Food Services.** The policy's text is unchanged. Footnotes are updated in response to subscriber feedback and provide a new explanation of and option for school districts that receive Community Eligibility Option (CEO) reimbursements. It reads:

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.

Districts that use this option must keep the other language within this policy to comply with federal law. Other nonsubstantive edits to the footnotes were made.

► **4:150, Facility Management and Building Programs.** The footnotes and Legal References are updated; the policy is not changed. A footnote contains the following information:

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 Legal References now include "105 ILCS 5/2-3.12."

## Personnel

► **5:10, Equal Employment Opportunity and Minority Recruitment.** The policy is updated as follows:

1. The underscored words are added to implement 775 ILCS 5/6-101, amended by P.A. 98-1050, eff. 1/1/2015: "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, ..."
2. Blank lines are added for the insertion of email addresses for the nondiscrimination coordinator and complaint managers. This is optional, but may facilitate reporting.

In addition to other nonsubstantive edits, the footnotes are updated as follows:

1. This caution is added: "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. A footnote to the protected status of *arrest record* is augmented in response to legislation:

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](http://www.eeoc.gov/laws/guidance/arrest_conviction.cfm)."

3. A footnote to the protected status of *being a victim of domestic or sexual violence* explains a requirement in the Victims' Economic Security and Safety Act, 820 ILCS 180/30, amended by P.A. 98-766, i.e.:

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.

4. A footnote to the protected statuses of *pregnancy, childbirth, or related medical conditions* is augmented in response to State legislation and federal rulemaking:

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](http://www.eeoc.gov/laws/guidance/pregnancy_qa.cfm).

The Legal References are updated to include Section 2-103 and 6-101 of the Human Rights Act (see #1 above in the list of policy edits) and the Job Opportunities for Qualified Applicants Act, 820 ILCS 820 ILCS 75/ (see #2 above in the list of footnote edits).

► **5:30-AP1, Administrative Procedure — Interview Questions.** In addition to several nonsubstantive updates, two new *protected statuses* are added to this procedure:

1. Interviewers should not seek information concerning a "conviction that is not on the School Code's list of disqualifying convictions." An explanation is provided that is essentially the same as #2 in the list of footnote edits for 5:30, above. The permissible interview question now states:

Have you ever been convicted of attempting to commit, conspiring to commit, soliciting, or committing any crime in the following list? (1) any sex offense or narcotics offense, as defined in Section Sec. 21B-80 of the School Code, (2) first degree murder or a Class X felony, or (3) any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses.

2. Interviewers should not ask whether an applicant is "a victim of domestic violence or [is] being protected under an order of protection status."

► **5:130, Responsibilities Concerning Internal Information.** The footnote to the policy's list of laws requiring confidential treatment of internal records is amended to include: "(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)." No other changes are made.

► **5:185, Family and Medical Leave.** The policy and footnotes are updated in response to amended federal rules and to enhance clarity and resources, as follows:

1. The policy's first paragraph states that employees may use unpaid family and medical leave (FMLA leave) as guaranteed by the federal Family and Medical Leave Act. The following sentence is added: "The U.S. Department of Labor's rules (federal rules) implementing FMLA, as they may be amended from time to time, control FMLA leave."

Among other things, the footnote to this new sentence explains that "[t]he U.S. Department of Labor, Wage & Hour Division, has a very helpful website containing forms, compliance guidance, posters, etc. ([www.dol.gov/whd/fmla](http://www.dol.gov/whd/fmla)). It also contains a link to the complete FMLA rules, 29 C.F.R. Part 825."

2. The following sentence is now a separate paragraph: "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.”

Its footnote explains:

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. The policy lists the instances in which FMLA leave is available, including 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.” The underscored and stricken words reflect changes in the federal rules.
4. Multiple definitions throughout the policy are replaced by references to the “federal rules.” The recent amendments to the federal rules have made the definitions too lengthy to restate in the policy. The footnotes provide citations.
5. A new sentence in the footnote to the section on **Eligibility** highlights that: “The default policy language exceeds federal law requirements because it provides immediate eligibility to full-time classroom teachers.” The footnote continues to provide an alternative for a board that wants to deny eligibility to classroom teachers who have not worked 12 months for the district.
6. In accordance with the revised federal rules, the **Certification** section now requires certificates to be “complete and sufficient” and signed by the individual identified in the policy.

► **5:185-AP, Administrative Procedure — Resource Guide for Family and Medical Leave.** A link to the compilation of resources, prepared by the U.S. Dept. of Labor, Wage & Hour Division, is added ([www.dol.gov/whd/fmla](http://www.dol.gov/whd/fmla)). The table of contents for the Dept. of Labor’s rules is edited to reflect the reorganization of and changes to the federal rules. We removed the Dept. of Labor’s definitions from the procedure believing that people are better served by being directed to the official rules.

► **5:220, Substitute Teachers.** The policy, footnotes, and Legal References are updated. The following changes to the policy are intended to enhance clarity and to replace ~~certificate~~ with license as per State statute and rule:

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:~~

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~~ Professional 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 footnotes now include the following reminders:

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

► **5:250, Leaves of Absence.** The policy, Legal References, and footnotes are updated. A new leave is added to the policy under the subhead **Leave to Serve as an Election Judge**, i.e.:

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.

A footnote gives the origin of this new leave and identifies an open question, i.e.: “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.”

## Instruction

► **6:20, School Year Calendar and Day.** This policy is updated in the footnotes and the Legal References. When a county board or board of election commissioners chooses a school to be a polling place, 10 ILCS 5/11-4.1, amended by P.A. 98-773, encourages a school district to (1) close the school or (2) hold a teachers' institute with students not in attendance.

► **6:60, Curriculum Content.** The policy is updated with other policies' name changes. The footnotes are amended to discuss:

1. 23 Ill.Admin.Code §1.420. It "recommends that activities, including student internships and observations of government in action, be a part of the instructional program where appropriate."

2. 105 ILCS 5/27-22, amended by P.A. 98-885. It allows the substitution of an advanced placement computer science course for a year of mathematics. See 6:300, *Graduation Requirements*, below for more information.

3. 105 ILCS 5/27-23.7, amended by P.A. 98-669. A new option reads:

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*.

4. 105 ILCS 110/3, amended by P.A. 98-632. It requires the comprehensive health education program to include cardiopulmonary resuscitation and automated external defibrillator use. See 6:60-AP, *Comprehensive Health Education Program*, below for more information.

5. House Resolution 824 (2014). It urges all schools in Illinois to educate youth about the dangers of using heroin and the rising numbers of accidental deaths from heroin overdoses.

6. Senate Resolution 1073 (2014), almost identical to a resolution last year, both urge all Illinois educators to share with students of an appropriate age the story of comfort women when discussing the history of Asia or World War II, or the issue of human trafficking.

7. 625 ILCS 5/6-408.5, amended by P.A. 98-718, which changed ~~GED~~ to high school equivalency in several statutes.

Legal References are amended to reflect the new laws discussed above, and the Cross References section contains an addition of 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

► **6:60-AP, Administrative Procedure — Comprehensive Health Education Program.** The procedure and footnotes are updated in response to the following legislative actions:

1. 105 ILCS 110/3, amended by P.A. 98-632. It required a new number 5. It reads:

5. In secondary schools, the program shall include: (1) cardiopulmonary resuscitation (CPR) training from a nationally recognized certifying organization, e.g., American Heart Association or American Red Cross, and (2) how to use an AED. Its corresponding footnote discusses the meaning of *secondary schools*.

2. House Resolution 824 (2014), discussed above in 6:60, *Curriculum Content*.

► **6:110, Programs for Student At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program.** The policy, Legal References, and footnotes are updated in response to legislation and to enhance clarity, as explained below:

1. The policy contains a list of conditions allowing students to enroll in a graduation incentive program. This list is nonsubstantively updated, i.e.: "5. Is enrolled in a bilingual education or ~~LEP~~ English Language Learners program." This change is made to use the same program name as used in statute and policy 6:160, *English Language Learners*.

2. "~~105 ILCS 5/2-3.64~~" is deleted from the Legal References because it was repealed by P.A. 98-972.

3. A footnote is edited to remove the obsolete explanation of a remedial program required by 105 ILCS 5/2-3.64, repealed by P.A. 98-972.

► **6:280, Grading and Promotion.** The policy, Legal References, Cross References, and footnotes are updated in response to the repeal of 105 ILCS 5/2-3.64 and the enactment of 105 ILCS 5/2-3.64a-5. The stricken and underscored words in the following indicate the changes to the policy:

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.

A cite in Legal References is changed, i.e., "~~105 ILCS 5/2-3.64~~ 5/2-3.64a-5." A footnote explains:

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.

► **6:280-AP, Administrative Procedure — Evaluating and Reporting Student Achievement.** In addition to nonsubstantive edits, the table is updated to:

1. Make amendments following the repeal of 105 ILCS 5/2-3.64, repealed by P.A. 98-972, to the principal's responsibility to develop a remediation plan for failing students.
2. Change the *list of directives* to the principal concerning grades to a *list of recommendations* that the principal provides the superintendent.

► **6:300, Graduation Requirements.** In addition to nonsubstantive edits, the following updates are made to the policy, footnotes, and Legal References:

1. A footnote is added providing the following information:

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. Outdated language is removed from the policy, i.e., "To graduate from high school, unless otherwise exempted, each student is responsible for: ... (2) Completing all courses as provided in the School Code, 105 ILCS 5/27-22, according to the year in which a student enters the 9th grade."

The footnote to this provision states:

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*.

3. A change is made to the policy following the repeal of 105 ILCS 5/2-3.64 and the enactment of 105 ILCS 5/2-3.64a-5, P.A. 98-972, i.e.: "To graduate from high school, unless otherwise exempted, each student is responsible for: ... (5) ~~Taking the Prairie State Achievement Examination~~ Participating in State assessments that are required for graduation by 105 ILCS 5/2-3.64a-5, unless the student is exempt according to 105 ILCS 5/2-3.64."

A footnote to this provision explains:

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.

4. Text is deleted from the policy to align with 105 ILCS 5/22-27, i.e.: "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) ..., (2) .., and (3) has not received a high school diploma ~~or General Educational Development (GED) diploma.~~"

► **6:300-E2, Exhibit — State Law Graduation Requirements.** This exhibit quotes the list of high school courses required for graduation by 105 ILCS 5/27-22; obsolete provisions are deleted. P.A. 98-885 amended Section 27-22 by permitting a school board to allow a student to substitute an Advanced Placement computer course for a high school mathematics course.

► **6:310, High School Credit for ~~Alternative Courses and Programs, and Non-District Experiences; Course Substitutions; Re-entering Students.~~** The policy is rewritten and amended in response to legislation. The policy is now organized under three subheads, described below. Footnotes explain the requirements and the options.

**Credit for Non-District Experiences.** This section consolidates all of the non-district experiences for which a student may receive high school credit. A footnote explains that "[e]ach board may choose for which, if any, of the listed non-district experiences the district will grant high school credit." An alternative is provided if a district does not grant credit for any of the listed experiences.

**Substitution for Required Courses.** This section contains the following four sub-sections:

- Vocational or technical education
- Advanced placement computer science - this is optional, but allowed by 105 ILCS 5/27-22, amended by P.A. 98-885
- Substitutions for physical education
- Volunteer service credit



**Re-Entering Students.** This section explains that individuals younger than 21 years of age may re-enter high school. It contains a list of activities for which re-entering students may receive credit.

► **6:340, Student Testing and Assessment Program.** The policy, footnotes, Cross References and Legal References are updated in response to the repeal of 105 ILCS 5/2-3.64 and the enactment of 105 ILCS 5/2-3.64a-5, added by P.A. 98-972. See 6:300, *Graduation Requirements*, above, for an explanation. An option is added for boards that do not want to exceed State law requirements concerning reports to parents/guardians. A footnote outlines changes to the *school climate survey* made by P.A. 98-648 to 105 ILCS 5/2-3.153.

## Students

► **7:50, School Admissions and Student Transfers To and From Non-District Schools.** The policy, footnotes, and Cross References are updated. We added an optional sentence in the text to address a new Section of the Military Compact Act at 105 ILCS 70/33, added by P.A. 98-673. It reads, “Students who are children of active duty military personnel transferring will be allowed to enter: (a) 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.” The Military Compact Act discusses transfers to and from schools and placement of children of active military duty personnel. More amendments are made below in 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools* and 7:100, *Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students*.

The first sentence in the **Student Transfers To and From Non-District Schools** subhead now reads, “A student may transfer into or out of the District according to State law and procedures developed by the Superintendent or designee.”

Footnotes are amended throughout to clarify and explain:

1. Early admission based upon a child’s readiness to attend school in footnote 6, “Using this exception defeats the age requirement rules because it only relies upon a child’s readiness, regardless of his or her age.”
2. 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**. New text in footnote 7 reads, “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.”
3. New citations for the Military Compact Act throughout in response to P.A. 98-673.

We amended Cross References renaming materials as follows, “6:310 (~~*High School Credit for Alternative Courses and Programs, and Non-District Experiences; Course Substitutions; Re-Entering Students*~~).”

► **7:50-AP, Administrative Procedure — School Admissions and Student Transfers To and From Non-District Schools.** The procedure, footnotes, and Legal References are updated in response to P.A. 98-673, amending 105 ILCS 70/32(a), recent *Dear Colleague Letters*, and ISBE’s annual registration and enrollment guidance document. Two new subheads were added. They are titled:

1. **Annual Review.** Due to the Office of Civil Rights (OCR) increasing activity initiating compliance visits in school districts, we added this subhead in response to some recent *Dear Colleague Letters* from OCR. The subhead text reads, “The Superintendent or designee reviews this procedure to ensure it is consistent with applicable State and federal laws.”
2. **Guidance Documents.** Several non-regulatory guidance documents from the OCR and ISBE’s annual registration and enrollment guidance document are listed here.

We added citations for the Military Compact Act throughout the procedure in response to P.A. 98-673. It discusses transfers to and from schools and placement of children of active military duty personnel. Citations to online links were also updated.

The footnotes are amended to discuss the OCR *Dear Colleague Letters*. Footnote 2 was moved into the text of the procedure as a “Note” and amended. The Legal References now include the citation to the Military Compact Act.

► **7:100, Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students.** The policy text, footnotes, and Legal References are updated. In response to a new administrative rule 77 Ill. Admin. Code Part 695 and the Military Compact Act (discussed above in 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*), we amended the text within the first subhead **Required Health Examinations and Immunizations** as follows:

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. Entering the sixth and ninth grades; and
3. Enrolling in an Illinois school, regardless of the student’s grade (including nursery school, special education, ~~h~~Head sStart programs operated by ele-

mentary or secondary schools, and students transferring into Illinois from out-of-state or out-of-country).

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

We omitted all unchanged policy text until the following change in the last paragraph:

~~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 her or she has proof...is properly submitted.

Footnotes that discuss the Military Compact Act were amended in response to the new public act. Other footnotes and the Legal References are amended to discuss 77 Ill. Admin Code Part 695, that requires immunizations against meningococcal disease at certain ages.

- ▶ **7:220, Bus Conduct.** A footnote to the section on **Electronic Recordings on School Buses** now discusses the impact of two Ill. Supreme Court decisions declaring the criminal eavesdropping statute to be unconstitutional. It states:

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.

- ▶ **7:220-AP, Administrative Procedures — Electronic Recordings on School Buses.** A new footnote discusses the impact of two Ill. Supreme Court decisions. It is almost identical to the new footnote in 7:220, quoted above.
- ▶ **7:270, Administering Medicines to Students.** The text of the policy, footnotes and its Administrative Procedure References are amended in response to 105 ILCS 5/22-30, amended by P.A. 98-795.

The text in the first sentence of the **Self-Administration of Medication** subhead was amended to read “A student may possess an epinephrine auto-injector (EpiPen®) and/or ~~asthma~~ 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 second subhead was renamed **School District Supply of Undesignated Epinephrine Auto-Injectors**, and its amended text now reads:

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, 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.

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.

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.

Footnotes discuss 105 ILCS 5/22-30, amended by P.A. 98-795, and the Administrative Procedure Reference is updated with a renamed procedure, discussed below in 7:270-AP2, *Checklist for District Supply of Undesignated Epinephrine Auto-Injectors*.

- ▶ **7:270-AP1, Administrative Procedures — Dispensing Medication.** The procedure is updated in response to the following:

1. 105 ILCS 5/22-30, amended by P.A. 98-795 (discussed immediately above). Text now reads, “*Medications includes an epinephrine auto-injector (EpiPen®) and asthma inhaler medication (105 ILCS 5/22-30(a), amended by P.A. 98-795).*”
2. The Public Self-Care of Diabetes Act, 410 ILCS 135/, added by P.A. 98-844, requires new text. It reads, “Last, the Public Self-Care of Diabetes Act allows a

person with diabetes (or a parent/guardian of a person with diabetes) to self-administer insulin (or administer insulin) in any location, public or private, where the person is authorized to be irrespective of whether the injection site is uncovered during or incidental to the administration of insulin (P.A. 98-844).”

3. Subscriber feedback that the following text is outdated, “Unless these arrangements can be made, the student must forego the field trip.”

► **7:270-AP2, Administrative Procedures — Checklist for District Supply of Undesignated Epinephrine Auto-Injectors.** The following procedure is renamed and substantially updated throughout to incorporate 105 ILCS 5/22-30, amended by P.A. 98-795 (see the discussion in 7:270, *Administering Medicines to Students*, above).

► **7:270-E, Exhibit- School Medication Authorization Form.** This form is updated throughout to incorporate 105 ILCS 5/22-30, amended by P.A. 98-795 (see the discussion in 7:270, *Administering Medicines to Students*, above).

## Community Relations

► **8:20, Community Use of School Facilities.** The policy is unchanged. A footnote discusses 10 ILCS 5/11-4.1, amended by P.A. 98-773 (discussed above in 6:20, *School Year Calendar and Day*).

## Progress Report: The contents of this table frequently change.

Topics	Our Response
<p><b>Physical Fitness Assessment (P.A. 98-859)</b> The law requires a Taskforce to submit recommendations on physical fitness assessments on or before April 1, 2014. ISBE must then create rules for implementing physical fitness assessments by Dec. 31, 2015. Implementation of physical fitness assessments will occur during the school year 2016-2017.</p>	<p>We will amend <b>PRESS</b> materials when ISBE finishes its rules.</p>
<p><b>Online Concussion Certificates (P.A. 98-1011)</b> Online concussion awareness training is mandatory for all high school coaching personnel, including the head and assistant coaches, and the athletic directors. Coaching personnel and athletic directors hired before the effective date of this law must be certified by Aug. 19, 2015. Coaching personnel and athletic directors hired on and after Aug. 19, 2014 must be certified before the starting date of their position. In addition, student athletes are required to view the Ill. High School Association’s video about concussions.</p>	<p>We will amend <b>PRESS</b> materials over the 2015 school year. Boards hiring coaching personnel and athletic directors after Aug. 19, 2014 should view <a href="http://screencast-o-matic.com/watch/c2iZYZnjPl">screencast-o-matic.com/watch/c2iZYZnjPl</a> for more information about compliance with this law.</p>
<p><b>E-Rate Spending and Transparency</b> The Federal Communications Commission (FCC) enacted changes this summer to the Universal Service Fund E-Rate program to provide \$2 billion in funding over the next two years for Wi-Fi connectivity to the nation’s schools and libraries. Wi-Fi connectivity, however, still requires a fixed wireline infrastructure. Other various E-Rate spending and transparency reforms were enacted.</p>	<p>We will monitor this development and amend <b>PRESS</b> as necessary in response to this change.</p>
<p><b>5:330, Sick Days, Vacation, Holidays, and Leaves</b> We have received feedback about the <b>PRESS</b> Issue 86 amendments to this material. We are working to amend the policy’s language and plan for it to be included in our January 2015 <b>PRESS</b> Issue 88.</p>	<p>Please refer all questions on this policy to Kimberly Small at 630-629-3776 x1226 and/or your board attorney.</p>

# Revisions to Policies, Administrative Procedures and Exhibits

Number and Title	<b>Action</b> The memo describes the revisions.
2:140, Communications To and From the Board	Policy, Legal References, and footnotes are updated in response to legislation.
2:140-E, Guidance for Board Member Communications, Including Email Use	A section is added in response to an Illinois Appellate Court decision.
2:250-E2, Exhibit - Immediately Available District Public Records and Web-Posted Reports and Records	Exhibit is updated in response to legislation.
4:10, Fiscal and Business Management	Footnotes are updated in response to legislation.
4:45, Insufficient Fund Checks and Debt Recovery	Policy and footnotes are updated in response to feedback and to clarify language in the <b>Delinquent Debt Recovery</b> subhead.
4:45-AP2, Administrative Procedure - Local Debt Recovery Implementation Procedures	<b>NEW</b>
4:45-E1, Exhibit - Cover Page Documenting the Process to Seek Offset from the Illinois Office of the Comptroller	Renamed and updated to document uniform district-wide due process for certifying debt to the Ill. Office of the Comptroller.
4:45-E2, Exhibit - Notice of Claim and Intent to Seek Debt Recovery; Challenge; and Response to Challenge.	Amended to (1) align with 4:45, <i>Insufficient Fund Checks and Debt Recovery</i> and (2) address requests for waivers of student fees as a challenge to delinquent debt.
4:110, Transportation	Policy and footnotes are updated to align with State statute.
4:120, Food Services	Policy, footnotes, and Legal References are updated to comply with <i>Smart Snacks</i> rules.
4:120-AP, Administrative Procedure - Food Services; Competitive Foods; Exemptions	Renamed and rewritten to comply with <i>Smart Snacks</i> rules.
4:130, Free and Reduced-Price Food Services	Policy is unchanged. Footnotes updated with (1) subscriber feedback, and (2) a new option for districts that receive Community Eligibility Option (CEO) reimbursements.
4:150, Facility Management and Building Programs	Footnotes and Legal References are updated in response to legislation.
5:10, Equal Employment Opportunity and Minority Recruitment	Policy, footnotes, and Legal References are updated in response to legislation and guidance from the U.S. Office of Civil Rights.
5:30-AP1, Administrative Procedure - Interview Questions	Procedure is updated in response to legislation.
5:130, Responsibilities Concerning Internal Information	A footnote is updated in response to legislation.
5:185, Family and Medical Leave	Policy and footnotes are updated in response to federal rule-making.
5:185-AP, Administrative Procedure - Resource Guide for Family and Medical Leave	Procedure is updated in response to federal rulemaking.
5:220, Substitute Teachers	Policy, Legal References, and footnotes are updated in response to legislation.
5:250, Leaves of Absence	Policy, Legal References, and footnotes are updated in response to legislation.
6:20, School Year Calendar and Day	Footnotes and Legal References updated in response to legislation.
6:60, Curriculum Content	Policy, Legal References, Cross References, and footnotes updated in response to rules and legislative action.
6:60-AP, Administrative Procedure - Comprehensive Health Education Program	Procedure and footnotes are updated in response to legislative action.
6:110, Programs for Student At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program	Policy, Legal References, and footnotes are updated in response to legislation.

# Revisions to Policies, Administrative Procedures and Exhibits

*continued*

Number and Title	Action
6:280, Grading and Promotion	Policy, Legal References, Cross References, and footnotes are updated in response to legislation.
6:280-AP, Administrative Procedure - Evaluating and Reporting Student Achievement	Procedure is updated in response to legislation and to enhance clarity and organization.
6:300, Graduation Requirements	Policy, Legal References, and footnotes are updated in response to legislation.
6:300-E2, Exhibit - State Law Graduation Requirements	Exhibit is updated in response to legislation and to delete out-of-date provisions.
6:310, <u>High School Credit for Alternative Courses and Programs, and Non-District Experiences; Course Substitutions; Re-Entering Students</u>	The name is changed and the policy is rewritten to enhance organization and clarity, and in response to legislation.
6:340, Student Testing and Assessment Program	Policy, footnotes, Legal References, and Cross References are updated in response to legislation.
7:50, School Admissions and Student Transfers To and From Non-District Schools	Policy, footnotes, and Cross References are updated in response to legislation and non-regulatory guidance documents.
7:50-AP, Administrative Procedure - School Admissions and Student Transfers To and From Non-District Schools	Procedure, footnotes and Legal References are updated for the same reasons discussed above in 7:50, <i>School Admissions and Student Transfers To and From Non-District Schools</i> .
7:100, Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students	Policy, footnotes, and Legal References are updated in response to rules and legislation.
7:220, Bus Conduct	A footnote is updated in response to an Illinois Supreme Court decisions.
7:220-AP, Administrative Procedures - Electronic Recordings on School Buses	A footnote is added in response to an Illinois Supreme Court decisions.
7:270, Administering Medicines to Students	Policy, footnotes, and Administrative Procedure References are amended in response to legislation.
7:270-AP1, Administrative Procedures - Dispensing Medication	Updated in response to legislation and subscriber feedback.
7:270-AP2, Administrative Procedures - Checklist for District Supply of <u>Undesignated</u> Epinephrine Auto-Injectors	Renamed and substantially updated for same reasons as 7:270, <i>Administering Medicines to Students</i> , above.
7:270-E, Exhibit - School Medication Authorization Form	Updated for same reasons as 7:270, <i>Administering Medicines to Students</i> , above.
8:20, Community Use of School Facilities	Policy unchanged. Footnote addresses the legislation discussed in 6:20, <i>School Year Calendar and Day</i> .

## Acknowledgement to PRESS Advisory Board

Before each **PRESS** issue is published, a group of distinguished individuals provides input and suggestions. We appreciate their contributions and thank them sincerely.

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