

To be added to 2:140

texts

REWRITTEN

2:140-E

**Cooperative Board**

**Exhibit - Guidance for Board Member Communications, Including Email Use**

The Board is authorized to discuss Cooperative business only at a properly noticed Board meeting (Open Meetings Act, 5 ILCS 120/). Other than during a Board meeting, a majority or more of a Board quorum may not engage in contemporaneous interactive communication, whether in person or electronically, to discuss Cooperative business. This *Guidance* assumes a Board has seven members and covers issues arising from Board policy 2:140, *Communications To and From the Board*.

Communications Outside of a Properly Noticed Board Meeting

1. The Executive Director or designee is permitted to email information to Board members. For example, the Executive Director may email Board meeting agendas and supporting information to Board members. When responding to a single Board member's request, the Executive Director should copy all other Board members and include a *do not reply/forward* alert to the group, such as: "BOARD MEMBER ALERT: This email is in response to a request. Do not reply or forward to the group but only to the sender."
2. Board members are permitted to discuss any matter except Cooperative business with each other, whether in person or by telephone or email, regardless of the number of members participating in the discussion. For example, they may discuss league sports, work, or current events.
3. Board members are permitted to provide information to each other, whether in person or by telephone or email, that is non-deliberative and non-substantive. Examples of this type of communication include scheduling meetings and confirming receipt of information.
4. A Board member is not permitted to discuss Cooperative business with more than one other Board member at a time, whether in person or by telephone or email. Stated another way, a Board member may discuss Cooperative business in person or by telephone or email with only one other Board member at a time. However, a Board member should not facilitate interactive communication by discussing Cooperative business in a series of visits with, or telephone calls or emails to, Board members individually.
5. A Board member should include a *do not reply/forward* alert when emailing a message concerning Cooperative business to more than one other Board member. The following is an example of such an alert: "BOARD MEMBER ALERT: This email is not for interactive discussion purposes. The recipient should not reply to it or forward it to any other individual."
6. Board members should not forward email received from another Board member.

**Comment [AKL1]:** This board exhibit is rewritten in response to a binding opinion from the Ill. Public Access Counselor, No. 11-6. The question presented was whether electronic communications to or from members of a public body using personal email addresses or Twitter accounts and/or personal equipment are public records subject to FOIA. The answer is *yes*, if the electronic communications pertained to public business.

If the board does not currently include this board exhibit in their manual, they might consider adding it as it addresses a number of questions that arise often in Cooperatives.

**Issue 80, October 2012**

When Must Email Be Retained?

According to the Freedom of Information Act, a *public record* is any recorded information, regardless of physical form, "having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body," (5 ILCS 140/2). Email sent or received by Board members may be, depending on the content, subject to disclosure as a *public record*. Accordingly, Board members must be able to distinguish between official record and non-record messages. **Important:** According to the binding Ill. Public Access Opinion No. 11-6, electronic communications concerning the transaction of public business are public records subject to disclosure under FOIA even if they were sent from or received by an electronic device owned by a member of a public body, rather than the public body itself.

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? IASB format

Non-Record Messages

Email messages are *non-record messages* when individual Board members are acting in their individual or personal capacities. Examples of non-record messages include:

1. Personal correspondence, such as, "Do you want to ride with me to the IASB workshop?"
2. Publications or promotional material from vendors or IASB.
3. Political messages or ones containing campaign strategy.
4. Messages mentioning public business in passing or in a nonsubstantive way.
5. Personal correspondence concerning community activities or children.

Non-record messages are not *public records* under the Freedom of Information Act and do not need to be stored.

Official Record Messages

Email that qualifies under FOIA as a *public record* will need to be stored only if it is evidence of the Cooperative's organization, function, policies, procedures, or activities or contains informational data appropriate for preservation (Local Records Act, 50 ILCS 205f). An example is any email from a Board officer concerning a decision made in his or her capacity as an officer. If a Board member uses his or her personal email, he or she must copy this type of email, herein called *official record messages*, to the appropriate Cooperative office where it will be stored on the Board member's behalf. If made available, Board members should use their email accounts provided by the Cooperative and the Cooperative will automatically store the official record messages. The Cooperative will delete these official record messages as provided in an applicable, approved retention schedule.

**Important:** Do not destroy any email concerning a topic that is being litigated without obtaining the Board attorney's direction. In federal lawsuits there is an automatic discovery of virtually all types of electronically created or stored data that might be relevant. Attorneys will generally notify their clients at the beginning of a legal proceeding not to destroy any electronic records that might be relevant. For more discussion of a litigation hold, see 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*.

DATED:

Please Compare to Current Board Exhibit 2:140-E

or

Consider adding the exhibit to your manual if it is not now included

Legal Reference?

# DRAFT UPDATE

## Cooperative Board

### Types of Advisory Board Meetings

#### General

For all meetings of the Advisory Board and its committees, the Executive Director or designee shall satisfy all notice and posting requirements contained herein as well as in the Open Meetings Act. This shall include mailing meeting notifications to news media that have officially requested them and to others as approved by the Board. Unless otherwise specified, all meetings are held in the Cooperative's main office. Board policy 2:220, *Board Meeting Procedure*, governs meeting quorum requirements.

The Executive Director is designated on behalf of the Board to receive the training on compliance with the Open Meetings Act that is required by Section 1.05(a) of that Act. The Executive Director may identify other employees to receive the training.

#### Regular Meetings

The Board announces the time and place for its regular meetings at the beginning of each fiscal year. The Executive Director shall prepare and make available the calendar of regular Board meetings. ~~Meeting dates- The regular meeting calendar may be changed with 10 days' notice in accordance with State law.~~

A meeting agenda shall be posted at the Cooperative's main office and the Board's meeting room, or other location where the meeting is to be held, at least 48 hours before the meeting. ~~Items not specifically on the agenda may still be considered during the meeting; no action will be taken on such items.~~

#### Closed Meetings

The Board may meet in a closed meeting to consider the following subjects:

1. The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity. 5 ILCS 120/2(c)(1).
2. Collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees. 5 ILCS 120/2(c)(2).
3. The selection of a person to fill a public office, as defined in the Open Meetings Act, including a vacancy in a public office, when the public body is given power to appoint under law or ordinance, or the discipline, performance or removal of the occupant of a public office, when the public body is given power to remove the occupant under law or ordinance. 5 ILCS 120/2(c)(3).
4. Evidence or testimony presented in open hearing, or in closed hearing where specifically authorized by law, to a quasi-adjudicative body, as defined in the Open Meetings Act,

**Comment [AKL1]:**  
**UPDATE 1:** Sentence is edited for clarity.  
**Issue 80, October 2012**

**Comment [AKL2]:**  
The Open Meetings Act now requires that "any required notice and agenda be continuously available for public viewing during the entire 48-hour period preceding the meeting." Emphasis added, 5 ILCS 120/2.02(c), amended by P.A. 97-827 (eff. 1-1-2013). The requirement for continuously available is satisfied if the district posts any required notice and agenda on its website.

**OPTION:** For districts that do not post board meeting agendas on a website (because they do not have a website maintained by a fulltime staff member). Add the following sentence:  
The agenda shall be continuously available for public review during the entire 48-hour period preceding the meeting.  
**Issue 80, October 2012**

**Comment [AKL3]:**  
**UPDATE 2:** Statement is deleted from this policy because this prohibition is fully covered in 2:220, *School Board Meeting Procedure*.  
**Issue 80, October 2012**

provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning. 5 ILCS 120/2(c)(4).

5. The purchase or lease of real property for the use of the public body, including meetings held for the purpose of discussing whether a particular parcel should be acquired. 5 ILCS 120/2(c)(5).
6. The setting of a price for sale or lease of property owned by the public body. 5 ILCS 120/2(c)(6).
7. The sale or purchase of securities, investments, or investment contracts. 5 ILCS 120/2(c)(7).
8. Security procedures and the use of personnel and equipment to respond to an actual, a threatened, or a reasonably potential danger to the safety of employees, students, staff, the public, or public property. 5 ILCS 120/2(c)(8).
9. Student disciplinary cases. 5 ILCS 120/2(c)(9).
10. The placement of individual students in special education programs and other matters relating to individual students. 5 ILCS 120/2(c)(10).
11. Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting. 5 ILCS 120/2(c)(11).
12. The establishment of reserves or settlement of claims as provided in the Local Governmental and Governmental Employees Tort Immunity Act, if otherwise the disposition of a claim or potential claim might be prejudiced, or the review or discussion of claims, loss or risk management information, records, data, advice or communications from or with respect to any insurer of the public body or any intergovernmental risk management association or self insurance pool of which the public body is a member. 5 ILCS 120/2(c)(12).
13. Self evaluation, practices and procedures or professional ethics, when meeting with a representative of a statewide association of which the public body is a member. 5 ILCS 120/2(c)(16).
14. Discussion of minutes of meetings lawfully closed under the Open Meetings Act, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06. 5 ILCS 120/2(c)(21).
15. Meetings between internal or external auditors and governmental audit committees, finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews conducted in accordance with generally accepted auditing standards of the United States of America. 5 ILCS 120/2(c)(28).

The Board may hold a closed meeting, or close a portion of a meeting, by a majority vote of a quorum, taken at an open meeting. The vote of each Board member present, and the reason for the closed meeting, will be publicly disclosed at the time of the meeting and clearly stated in the motion and the meeting minutes.

A single motion calling for a series of closed meetings may be adopted when such meetings will involve the same particular matters and are scheduled to be held within 3 months of the vote.

No final Board action will be taken at a closed meeting.

Reconvened or Rescheduled Meetings

A meeting may be rescheduled or reconvened. Public notice of a rescheduled or reconvened meeting shall be given in the same manner as that for a special meeting, except that no public notice is required when the original meeting is open to the public and: (1) is to be reconvened within 24 hours, or (2) an announcement of the time and place of the reconvened meeting was made at the original meeting and there is no change in the agenda.

Special Meetings

Special meetings may be called by the Chairperson or by any 3 members of the Board by giving notice thereof, in writing, stating the time, place, and purpose of the meeting to remaining Board members by mail at least 48 hours before the meeting, or by personal service at least 24 hours before the meeting.

Public notice of a special meeting is given by posting a notice at the Cooperative's main office at least 48 hours before the meeting and by notifying the news media that have filed a written request for notice. A meeting agenda shall accompany the notice.

~~No~~ All matters will be discussed, considered, or brought before by the Board at any special meeting other than such matters as were included in the stated purpose of must be related to a subject on the meeting agenda.

Emergency Meetings

Public notice of emergency meetings shall be given as soon as practical, but in any event, before the meeting to news media that have filed a written request for notice.

Posting on the Cooperative Website

In addition to the other notices specified in this policy, the Executive Director or designee shall post the following on the Cooperative's website: (1) the annual schedule of regular meetings, which shall remain posted until the Board approves a new schedule of regular meetings; (2) a public notice of all Board meetings; and (3) the agenda for each regular meeting which shall remain posted until the regular meeting is concluded.

LEGAL REF.: 5 ILCS 120/, Open Meeting Act.  
5 ILCS 140/, Freedom of Information Act.  
105 ILCS 5/10-6 and 5/10-16.

CROSS REF.: 2:220 (Board Meeting Procedure), 2:230 (Public Participation at Board Meetings and Petitions to the Board), 6:235 (Access to Electronic Networks)

ADOPTED: June 7, 2012

**Comment [AKL4]:**  
**OPTION:** For districts that do not post board meeting agendas on a website (because they do not have a website maintained by a fulltime staff member). Add the following sentence:  
The agenda shall be continuously available for public review during the entire 48-hour period preceding the meeting.  
**Issue 80, October 2012**

**Comment [AKL5]:**  
**UPDATE 3:** Lawyers disagree whether the Open Meetings Act mandates this restriction, i.e., whether it restricts board discussions to items related to an item on the special meeting agenda. The Act limits board action to items on the agenda (5 ILCS 120/2.02(c), added by P.A. 97-827, eff. 1-1-2013); it states that the validity of any action taken "which is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda," (5 ILCS 120/2.02(a)).  
**Issue 80, October 2012**

# DRAFT UPDATE

Mid-Valley Special Education Cooperative

2:220

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## Cooperative Board

### Board Meeting Procedure

#### Agenda

The Advisory Board Chairperson is responsible for focusing the Board meeting agendas on appropriate content. The Executive Director shall prepare agendas in consultation with the Chairperson. The Chairperson shall designate a portion of the agenda as a consent agenda for those items that usually do not require discussion or explanation before Board action. Upon the request of any Board member, an item will be withdrawn from the consent agenda and placed on the regular agenda for independent consideration.

Each Board meeting agenda shall contain the general subject matter of any item that will be the subject of final action at the meeting. Items submitted by Board members to the Executive Director or the Chairperson shall be placed on the agenda for an upcoming meeting. The Board will take final action only on items contained in the posted agenda; items not specifically on the agenda may still be discussed during the meeting; no action will be taken on such items.

The Executive Director shall provide a copy of the agenda, with adequate data and background information, to each Board member at least 48 hours before each meeting, except a meeting held in the event of an emergency. The meeting agenda shall be posted in accordance with Board policy 2:200, *Types of Advisory Board Meetings*.

The Board Chairperson shall determine the order of business at regular Board meetings. Upon consent of a majority of members present, the order of business at any meeting may be changed.

#### Voting Method

Unless otherwise provided by law, when a vote is taken upon any measure before the Board, with a quorum being present, a majority of the votes cast shall determine its outcome. A vote of "abstain" or "present," or a vote other than "yea" or "nay," or a failure to vote, is counted for the purposes of determining whether a quorum is present. A vote of "abstain" or "present," or a vote other than "yea" or "nay," or a failure to vote, however, is not counted in determining whether a measure has been passed by the Board, unless otherwise stated in law. The sequence for casting votes is rotated.

On all questions involving the expenditure of money and on all questions involving the closing of a meeting to the public, a roll call vote shall be taken and entered in the Board's minutes. An individual Board member may request that a roll call vote be taken on any other matter; the Chairperson or other presiding officer may approve or deny the request but a denial is subject to being overturned by a majority vote of the members present.

#### Minutes

The Board Secretary shall keep written minutes of all Board meetings (whether open or closed), which shall be signed by the Chairperson and the Secretary. The minutes include:

1. The meeting's date, time, and place;
2. Board members recorded as either present or absent;

**Comment [AKL1]:**  
UPDATE 1: The Open Meetings Act was amended to specifically state a requirement found in an appellate court ruling, i.e., that no final action may be taken on an item unless it is on the published agenda.  
Issue 80, October 2012

**Comment [AKL2]:**  
UPDATE 2: Policy is edited To comply with change in the OMA (see above).  
Issue 80, October 2012

3. A summary of the discussion on all matters proposed, deliberated, or decided, and a record of any votes taken;
4. On all matters requiring a roll call vote, a record of who voted "yea" and "nay";
5. If the meeting is adjourned to another date, the time and place of the adjourned meeting;
6. The vote of each member present when a vote is taken to hold a closed meeting or portion of a meeting, and the reason for the closed meeting with a citation to the specific exception contained in the Open Meetings Act authorizing the closed meeting;
7. A record of all motions, including individuals making and seconding motions;
8. Upon request by a Board member, a record of how he or she voted on a particular motion; and
9. The type of meeting, including any notices and, if a reconvened meeting, the original meeting's date.

The minutes shall be submitted to the Board for approval or modification at its next regularly scheduled open meeting. Minutes for open meetings must be approved within 30 days after the meeting or at the second subsequent meeting, whichever is later.

At least semi-annually in an open meeting, the Board: (1) reviews minutes from all closed meetings that are currently unavailable for public release, and (2) decides which, if any, no longer require confidential treatment and are available for public inspection. The Board may meet in a prior closed session to review the minutes from closed meetings that are currently unavailable for public release.

The Board's meeting minutes must be submitted to the Board Treasurer at such times as the Treasurer may require.

The official minutes are in the custody of the Board Secretary. Open meeting minutes are available for inspection during regular office hours within 10 days after the Board's approval; they may be inspected in the Cooperative's main office, in the presence of the Secretary, the Executive Director or designee, or any Board member. Minutes from closed meetings are likewise available, but only if the Board has released them for public inspection. The closed session minutes shall not be removed from the Executive Director or designee's office except by vote of the Board or by court order.

The Board's open meeting minutes shall be posted on the Cooperative website within 10 days after the Board approves them; the minutes will remain posted for at least 60 days.

#### Verbatim Record of Closed Meetings

The Executive Director, or the Board Secretary when the Executive Director is absent, shall audio record all closed meetings. If neither is present, the Chairperson or presiding officer shall assume this responsibility. After the closed meeting, the person making the audio recording shall label the recording with the date and store it in a secure location. The Executive Director shall ensure that: (1) an audio recording device and all necessary accompanying items are available to the Board for every closed meeting, and (2) a secure location for storing closed meeting audio recordings is maintained close to the Board's regular meeting location.

After 18 months have passed since being made, the audio recording of a closed meeting is destroyed provided the Board approved: (1) its destruction, and (2) minutes of the particular closed meeting.

Individual Board members may listen to verbatim recordings when that action is germane to their responsibilities. In the interest of encouraging free and open expression by Board members during closed meetings, the recordings of closed meetings should not be used by Board members to confirm or dispute the accuracy of recollections.

#### Quorum and Participation by Audio or Video Means

A quorum of the Board must be physically present at all Board meetings. A majority of the full membership of the Board constitutes a quorum.

Provided a quorum is physically present, a Board member may attend a meeting by video or audio conference if he or she is prevented from physically attending because of: (1) personal illness or disability, (2) employment or Cooperative business, or (3) a family or other emergency. If a member wishes to attend a meeting by video or audio means, he or she must notify the recording secretary or Executive Director at least 24 hours before the meeting unless advance notice is impractical. The recording secretary or Executive Director will inform the Chairperson and make appropriate arrangements. A Board member who attends a meeting by audio or video means, as provided in this policy, may participate in all aspects of the Board meeting including voting on any item.

#### Rules of Order

Unless State law or Board-adopted rules apply, the Chairperson, as the presiding officer, will use Robert's Rules of Order, Newly Revised (10th Edition), as a guide when a question arises concerning procedure.

#### Broadcasting and Recording Board Meetings

Any person may record or broadcast an open Board meeting. Special requests to facilitate recording or broadcasting an open Board meeting, such as seating, writing surfaces, lighting, and access to electrical power, should be directed to the Executive Director at least 24 hours before the meeting.

Recording meetings shall not distract or disturb Board members, other meeting participants, or members of the public. The Chairperson may designate a location for recording equipment, may restrict the movements of individuals who are using recording equipment, or may take such other steps as are deemed necessary to preserve decorum and facilitate the meeting.

LEGAL REF.: 5 ILCS 120/2a, 120/2.02, 120/2.05, and 120/2.06.  
105 ILCS 5/10-6, 5/10-7, 5/10-12, and 5/10-16.

CROSS REF.: 2:200 (Types of Advisory Board Meetings), 2:230 (Public Participation at Board Meetings and Petitions to the Board)

ADOPTED: February 1, 2012



# DRAFT UPDATE

Mid-Valley Special Education Cooperative

4:45

## Operational Services

### Insufficient Fund Checks and Debt Recovery

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

#### Delinquent Debt Recovery

The Superintendent is authorized to seek collection of delinquent debt owed the District.

*Cooperative*  
The Superintendent or designee shall execute the requirements in any intergovernmental agreement between the District and the Illinois Office of the Comptroller (Comptroller) that has the purpose of debt recovery. The intergovernmental agreement establishes the terms under which the District may request, and the Comptroller will execute, a deduction (offset) of the amount of a debt owed the District from a future payment that the State makes to an individual or entity responsible for paying the debt. The Comptroller will pay the amount deducted to the District and the District will credit that amount against the balance owed to the District until the debt is paid. The Superintendent or designee is responsible, without limitation, for each of the following:

1. Providing notice and due process to the individual or entity against whom a claim is made. Written notice must be given the individual or entity responsible for paying a debt before the debt is certified to the Comptroller 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. An appeal of the denial of a fee waiver request shall be handled according to 4:140, Waiver of Student Fees.
2. Certifying to the Comptroller that the debt is past due and legally enforceable, and notifying the Comptroller of any change in the status of an offset claim.
3. Responding to requests for information from the Comptroller to facilitate the prompt resolution of any protest received by the Comptroller.

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

ADOPTED: February 1, 2012

**Comment [AKL1]:** This policy is renamed and updated; its Legal References are also updated. A section is added for Delinquent Debt Recovery. It authorizes the superintendent to seek collection of delinquent debt owed the district. The rest of the new section concerns the district's participation in an Offset Program operated by the Ill. Office of the Comptroller for collecting debt owed to school districts from persons receiving payments from the State. 15 ILCS 405/10.05 and 10.05d amended by P.A. 97-632. Issue 80, October 2012.

**Comment [AKL2]:**  
**OPTION:** This language is optional. To participate in the Offset Program, a school district must enter into an intergovernmental agreement with the Comptroller that establishes responsibilities, duties, and procedures. Contact a Local Debt Recovery Program manager in the Comptroller's office to join the program. Program managers work one-on-one with districts. The general number is 312/814-2488 and email is [ldrp@mail.ios.state.il.us](mailto:ldrp@mail.ios.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.  
Issue 80, October 2012.

# DRAFT UPDATE

Mid-Valley Special Education Cooperative

4:100

## Operational Services

### Insurance Management

The Executive Director shall annually recommend and maintain all insurance programs that provides the broadest and most complete coverage available at the most economical cost, consistent with sound insurance principles.

The insurance program shall include:

1. Liability coverage to insure against any loss or liability of the Cooperative and the listed individuals against civil rights damage claims and suits, constitutional rights damage claims and suits, and death and bodily injury and property damage claims and suits, including defense costs, when damages are sought for negligent or wrongful acts allegedly committed in the scope of employment or under the Advisory Board's direction or related to any mentoring services provided to the Cooperative's certified staff members; Advisory Board members; employees; volunteer personnel authorized by 105 ILCS 5/10-22.34, 5/10-22.34a, and 5/10-22.34b; mentors of certified staff members authorized in 105 ILCS 5/21A-5 et seq. (new teacher), 105 ILCS 5/2-3.53a (new principal), and 2-3.53b (new superintendents); and student teachers.
2. Comprehensive property insurance covering a broad range of causes of loss involving building and personal property. The coverage amount shall normally be for the replacement cost or the insurable value.
3. Workers' Compensation to protect individual employees against financial loss in case of a work-related injury, certain types of disease, or death incurred in an employee-related situation.
4. Employee insurance programs.

LEGAL REF.: Consolidated Omnibus Budget Reconciliation Act, P. L. 99-272, ¶ 1001, 100 Stat. 222, 4980B(f) of the I.R.S. Code, 42 U.S.C. §300bb-1 et seq.  
105 ILCS 5/10-20.20, 5/10-22.3, 5/10-22.3a, 5/10-22.3b, 5/10-22.3f, 5/10-22.34, 5/10-22.34a, and 5/10-22.34b.  
215 ILCS 5/  
750 ILCS 75/.  
820 ILCS 305/.

ADOPTED: March 7, 2012

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**Comment [AKL1]:** This change provides more flexibility to districts and more accurately reflects the fact that many districts sign multi-year contracts with a variety of insurance providers.

Issue 80, October 2012

# ***DRAFT UPDATE***

## **Operational Services**

### **Safety**

#### **Safety Program**

All MVSEC operations, including the education program, shall be conducted in a manner that will promote the safety of everyone on Cooperative property or at a Cooperative event.

The Executive Director or designee shall develop and implement a comprehensive safety and crisis plan incorporating both avoidance and management guidelines. The comprehensive safety and crisis plan shall specifically include provisions for: injury prevention; bomb threats, weapons, and explosives on campus; school safety drill program; tornado protection; instruction in safe bus riding practices; emergency aid; post-crisis management; and, responding to medical emergencies at an indoor and outdoor physical fitness facility. The term "physical fitness facility" excludes any activity or program organized by a private or not-for-profit organization and organized and supervised by a person or persons other than the employees of the school. During each academic year, each school building that houses school children must conduct a minimum of:

1. Three school evacuation drills,
2. One bus evacuation drill,
3. One severe weather and shelter-in-place drill, and
4. One law enforcement drill.

The law enforcement drill must be conducted according to the Cooperative's comprehensive safety and crisis plan, with the participation of the appropriate law enforcement agency. This drill may be conducted on days and times that students are not present in the building.

In the event of an emergency that threatens the safety of any person or property, students and staff are encouraged to use any available cellular telephone.

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

#### **Convicted Child Sex Offender and Notification Laws**

State law prohibits a child sex offender from being present on school property or loitering within 500 feet of school property when persons under the age of 18 are present, unless the offender meets either of the following two exceptions:

1. The offender is a parent/guardian of a student attending the school and has notified the Building Principal of his or her presence at the school for the purpose of: (i) attending a conference with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion; or

2. The offender received permission to be present from the Advisory Board, Executive Director, or Executive Director's designee. If permission is granted, the Executive Director or Board Chairperson shall provide the details of the offender's upcoming visit to the Building Principal.

In all cases, the Executive Director, or designee who is a certified employee, shall supervise a child sex offender whenever the offender is in a child's vicinity.

If a student is a sex offender, the Executive Director or designee shall develop guidelines for managing his or her presence in school.

The Executive Director shall develop procedures for the distribution and use of information from law enforcement officials under the Sex Offender Community Notification Law and the Murderer and Violent Offender Against Youth Community Notification Law. The Executive Director or designee shall serve as the Cooperative contact person for purposes of these laws. The Executive Director and Building Principal shall manage a process for schools to notify the parents/guardians during school registration that information about sex offenders is available to the public as provided in the Sex Offender Community Notification Law. This notification must occur during school registration and at other times as the Executive Director or Building Principal determines advisable.

All contracts with the School District that may involve an employee or agent of the contractor having ~~any contact, direct or indirect,~~ with a student, shall contain the following:

*direct, daily contact*

The contractor shall not send to any school building or school property any employee or agent who would be prohibited from being employed by the Cooperative due to a conviction of a crime listed in 105 ILCS 5/10-21.9, or who is listed in the Statewide Sex Offender Registry or the Statewide Violent Offender Against Youth Database. The contractor shall obtain a fingerprint-based criminal history records check before sending any employee or agent to any school building or school property. Additionally, at least quarterly, the contractor shall check if an employee or agent is listed on the Statewide Sex Offender Registry or the Statewide Violent Offender Against Youth Database.

**Comment [AKL1]: UPDATE 1:** Options exist for districts as to how comprehensive they wish to make their policy concerning restrictions on contractors' employees.

**OPTION 1:** Option 1 ("...direct or indirect contact...") goes further than State law. It requires checks for any contractor's employee who may work in any school building or on school property - after all, the burden is on the contractor to do the checking.

**OPTION 2:** Option 2 ("...direct, daily contact...") is for districts that want their policy language to mirror State law which requires checks for contractors' employees who have direct, daily contact with students.

Issue 80, October 2012

Emergency Closing

The Executive Director is authorized to close the schools in the event of hazardous weather or other emergencies that threaten the safety of students, staff members, or school property.

LEGAL REF.: 105 ILCS 5/10-20.28, 5/ 21B-80, 5/10-21.9, and 128/210 ILCS 74/625 ILCS 5/12-813.1.720 ILCS 5/11-9.3.730 ILCS 152/101 et seq.

CROSS REF.: 5:30 (Hiring Process and Criteria), 6:190 (Extracurricular and Co-Curricular Activities), 6:250 (Community Resource Persons and Volunteers), 7:220 (Bus Conduct), 7:300 (Extracurricular Athletics), 8:30 (Visitors to and Conduct on School Property), 8:100 (Relations with Other Organizations and Agencies)

ADOPTED: June 7, 2012

# DRAFT UPDATE

Mid-Valley Special Education Cooperative

5:30

*OK*

## General Personnel

### Hiring Process and Criteria

The Cooperative hires the most qualified personnel consistent with budget and staffing requirements and in compliance with the Advisory Board policy on equal employment opportunity and minority recruitment. The Executive Director or designee is responsible for recruiting personnel and making hiring recommendations to the Board. If the Executive Director's recommendation is rejected, the Executive Director must submit another. No individual will be employed who has been convicted of a criminal offense listed in Section 5/21B-80 of the School Code.

All applicants must complete a Cooperative or Kane County application in order to be considered for employment.

### Job Descriptions

The Executive Director shall develop and maintain a current comprehensive job description for each position or job category with input from bargaining units as indicated in their contracts.

### Investigations

The Executive Director or designee shall ensure that a fingerprint-based criminal history records check and a check of the Statewide Sex Offender Database and Violent Offender Against Youth Database is performed on each applicant as required by State law. The Executive Director or designee shall notify an applicant if the applicant is identified in either database. The School Code requires the Board Chairperson to keep a conviction record confidential and share it only with the Executive Director, Regional Superintendent, State Superintendent, State Educator Preparation and Licensure Board, any other person necessary to the hiring decision, or for purposes of clarifying the information, the Department of State Police and/or Statewide Sex Offender Database.

~~The Executive Director or designee shall ensure that an applicant's credit history or report from a consumer reporting agency is used only when a satisfactory credit history is an established bona fide occupational requirement of a particular position.~~

Each newly hired employee must complete an Immigration and Naturalization Service Form as required by federal law.

The Cooperative retains the right to discharge any employee whose criminal background investigation reveals a conviction for committing or attempting to commit any of the offenses outlined in Section 5/ 21B-80 of the School Code or who falsifies, or omits facts from, his or her employment application or other employment documents.

~~The Executive Director shall ensure that the Cooperative does not engage in any investigation or inquiry prohibited by law and complies with each of the following:~~

- ~~1. The Cooperative uses an applicant's credit history or report from a consumer reporting agency only when a satisfactory credit history is an established bona fide occupational requirement of a particular position.~~
- ~~2. The Cooperative does not ask an applicant or applicant's previous employers about claim(s) made or benefit(s) received under the Workers' Compensation Act.~~

**Comment [AKL1]:** Paragraph is deleted from this location and added in a following paragraph. Issue 80, October 2012

**Comment [AKL2]:** A paragraph is added to address a number of laws reflecting employee privacy rights: Employee Credit Privacy Act, 820 ILCS 70/, Right to Privacy in the Workplace Act, 820 ILCS 55/10(a), 820 ILCS 55/10(b), added by P.A. 97-875 and known as the Facebook Password Law (effective 1-1-2013). Please see the Update Memo for a discussion of employer's rights.

**OPTION:** As an alternative to describing the prohibited investigations, a board may substitute the following paragraph:

The Superintendent shall ensure that the District does not engage in any investigation or inquiry prohibited by law, including without limitation, investigation into or inquiry concerning: (1) credit history or report unless a satisfactory credit history is an established bona fide occupational requirement of a particular position; (2) claim(s) made or benefit(s) received under Workers' Compensation Act; and (3) access to an employee's or applicant's social networking website, including a request for passwords to such sites. Issue 80, October 2012

3. The Cooperative does not request of an applicant or employee access in any manner to his or her social networking website, including a request for passwords to such sites.
4. The Cooperative provides equal employment opportunities to all persons. See policy 5:10, *Equal Employment Opportunity and Minority Recruitment.*

#### Physical Examinations

New employees must furnish evidence of physical fitness to perform assigned duties and freedom from communicable disease, including tuberculosis. All physical fitness examinations and tests for tuberculosis must be performed by a physician licensed in Illinois, or any other state, to practice medicine and surgery in any of its branches, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the authority by his or her supervising physician to perform health examinations. The employee must have the physical examination and tuberculin test performed no more than 90 days before submitting evidence of it to the Board.

Any employee may be required to have an additional examination by a physician who is licensed in Illinois to practice medicine and surgery in all its branches, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the authority by his or her supervising physician to perform health examinations, if the examination is job-related and consistent with business necessity. The Advisory Board will pay the expenses of any such examination.

#### Orientation Program/Training

**Please refer to the following current Agreements:**

**Professional Agreement between Mid-Valley Special Education Cooperative Executive Advisory Board and Mid-Valley Special Education Association-IEA/NEA.**

**Professional Agreement between Mid-Valley Special Education Cooperative Executive Advisory Board and the Therapy Association for Special Children, IEA/NEA.**

**For those employees not covered by these Agreements:**

The Cooperative's staff will provide an orientation program for new employees to acquaint them with the Cooperative's policies and procedures, the school's rules and regulations, and the responsibilities of their position.

LEGAL REF.: 105 ILCS 5/10-21.9.  
Employee Credit Privacy Act, 820 ILCS 70/.  
Right to Privacy in the Workplace Act, 820 ILCS 55/.  
Americans with Disabilities Act, 42 U.S.C. §12112, 29 C.F.R. Part 1630.  
Immigration Reform and Control Act, 8 U.S.C. §1324a et seq.  
105 ILCS 5/10-16.7, 5/10-20.7, 5/10-21.4, 5/10-21.9, 5/21B-10, 5/21B-80, 5/10-  
22.34, 5/10-22.34b, 5/22-6.5, and 5/24-1 et seq.  
820 ILCS 55/ and 70/.  
Duldulao v. St. Mary of Nazareth Hospital, 483 N.E.2d 956 (Ill.App.1, 1985), *aff'd*  
*in part and remanded* 505 N.E.2d 314 (Ill., 1987).  
Kaiser v. Dixon, 468 N.E.2d 822 (Ill.App.2, 1984).  
Molitor v. Chicago Title & Trust Co., 59 N.E.2d 695 (Ill.App.1, 1945).

CROSS REF.: 3:50 (Administrative Personnel Other Than the Executive Director), 5:10 (Equal  
Employment Opportunity and Minority Recruitment), 5:40 (Communicable and  
Chronic Infectious Disease), 5:125 (Personal Technology and Social Media;  
Usage and Conduct), 5:125 (Personal Technology and Social Media; Usage and  
Conduct), 5:220 (Substitutes), 5:280 (Educational Support Personnel - Duties and  
Qualifications)

ADOPTED: June 7, 2012

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# DRAFT UPDATE

## General Personnel

### Personal Technology and Social Media; Usage and Conduct

#### Definitions

**Includes** - Means "includes without limitation" or "includes, but is not limited to."

**Social media** - Media for social interaction, using highly accessible communication techniques through the use of web-based and mobile technologies to turn communication into interactive dialogue. This includes *Facebook, LinkedIn, MySpace, Twitter, and YouTube*.

**Personal technology** - Any device that is not owned or leased by the Cooperative or otherwise authorized for Cooperative use and: (1) transmits sounds, images, text, messages, videos, or electronic information, (2) electronically records, plays, or stores information, or (3) accesses the Internet, or private communication or information networks. This includes smartphones such as BlackBerry®, android®, iPhone®, and other devices, such as, iPads® and iPods®.

#### Usage and Conduct

All Cooperative employees who use personal technology and social media shall:

1. Adhere to the high standards for appropriate school relationships in policy 5:120, *Ethics and Conduct* at all times, regardless of the ever-changing social media and personal technology platforms available. This includes Cooperative employees posting images or private information about themselves or others in a manner readily accessible to students and other employees that is inappropriate as defined by policy 5:20, *Workplace Harassment Prohibited*; 5:120, *Ethics and Conduct*; 6:235, *Access to Electronic Networks*; 7:20, *Harassment of Students Prohibited*; and the Ill. Code of Educator Ethics, 23 Ill.Admin.Code §22.20.
2. Choose a Cooperative-provided or supported method whenever possible to communicate with students and their parents/guardians.
3. Not interfere with or disrupt the educational or working environment, or the delivery of education or educational support services.
4. Comply with policy 5:130, *Responsibilities Concerning Internal Information*. This means that personal technology and social media may not be used to share, publish, or transmit information about or images of students and/or Cooperative employees without proper approval. For Cooperative employees, proper approval may include implied consent under the circumstances.
5. Refrain from using the Cooperative's logos without permission and follow Board policy 5:170, *Copyright*, and all Cooperative copyright compliance procedures.
6. Use personal technology and social media for personal purposes only during non-work times or hours. Any duty-free use must occur during times and places that the use will not interfere with job duties or otherwise be disruptive to the school environment or its operation.
7. Assume all risks associated with the use of personal technology and social media at school or school-sponsored activities, including students' viewing of inappropriate Internet materials



through the Cooperative employee's personal technology or social media. The Advisory Board expressly disclaims any responsibility for imposing content filters, blocking lists, or monitoring of its employees' personal technology and social media.

8. Be subject to remedial and any other appropriate disciplinary action for violations of this policy ranging from prohibiting the employee from possessing or using any personal technology or social media at school to dismissal and/or indemnification of the Cooperative for any losses, costs, or damages, including reasonable attorney fees, incurred by the Cooperative relating to, or arising out of, any violation of this policy.

The Executive Director shall:

1. Inform Cooperative employees about this policy during the in-service on educator ethics, teacher-student conduct, and school employee-student conduct required by Board policy 5:120, *Ethics and Conduct*.
2. Direct Coordinators to annually:
  - a. Provide their building staff with a copy of this policy.
  - b. Inform their building staff about the importance of maintaining high standards in their school relationships.
  - c. Remind their building staff that those who violate this policy will be subject to remedial and any other appropriate disciplinary action up to and including dismissal.
3. Build awareness of this policy with students, parents, and the community.
4. Ensure that no one for the District, or on its behalf, requests of an employee or applicant access in any manner to his or her social networking website or requests passwords to such sites.
- 4.5. Periodically review this policy and any procedures with Cooperative employee representatives and electronic network system administrator(s) and present proposed changes to the Advisory Board.

**Comment [AKL1]:** Added to address the Right to Privacy in the Workplace Act, 820 ILCS 55/10(b), added by P.A. 97-875 and known as the Facebook Password Law (effective 1-1-2013).  
Issue 80, October 2012

LEGAL REF.: 105 ILCS 5/ 21B-75 and 5/ 21B-80.  
Ill. Human Rights Act, 775 ILCS 5/5A-102.  
Code of Ethics for Ill. Educators, 23 Ill.Admin.Code §22.20.  
Garcetti v. Ceballos, 547 U.S. 410 (2006).  
Pickering v. High School Dist. 205, 391 U.S. 563 (1968).  
Mayer v. Monroe County Community School Corp., 474 F.3d 477 (7th Cir. 2007).

CROSS REF.: 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 5:120 (Ethics and Conduct), 5:130 (Responsibilities Concerning Internal Information), 5:150 (Personnel Records), 5:170 (Copyright), 5:200 (Terms and Conditions of Employment and Dismissal), 6:235 (Access to Electronic Networks), 7:20 (Harassment of Students Prohibited), 7:340 (Student Records)

ADOPTED: June 7, 2012

REWRITTEN

6:65

## Instruction

### Student Social and Emotional Development

Social and emotional learning (SEL) is defined as the process through which students enhance their ability to integrate thinking, feeling, and behaving to achieve important life tasks. Students competent in SEL are able to recognize and manage their emotions, establish healthy relationships, set positive goals, meet personal and social needs, and make responsible and ethical decisions.

The Executive Director shall incorporate SEL into the Cooperative's curriculum and other educational programs consistent with the Cooperative's mission and the goals and benchmarks of the III. Learning Standards. The III. Learning Standards include three goals for students:

1. Develop self-awareness and self-management skills to achieve school and life success.
2. Use social-awareness and interpersonal skills to establish and maintain positive relationships.
3. Demonstrate decision-making skills and responsible behaviors in personal, school, and community contexts.

The incorporation of SEL objectives into the Cooperative's curriculum and other educational programs may include but is not limited to:

1. Classroom and school-wide programming to foster a safe, supportive learning environment where students feel respected and valued. This may include incorporating scientifically based, age-and-culturally appropriate classroom instruction, Cooperative-wide, and school-wide strategies that teach SEL skills, promote optimal mental health, and prevent risk behaviors for all students.
2. Staff development and training to promote students' SEL development. This may include providing all personnel with age-appropriate academic and SEL and how to promote it.
3. Parent/Guardian and family involvement to promote students' SEL development. This may include providing parents/guardians and families with learning opportunities related to the importance of their children's optimal SEL development and ways to enhance it.
4. Community partnerships to promote students' SEL development. This may include establishing partnerships with diverse community agencies and organizations to assure a coordinated approach to addressing children's mental health and SEL development.
5. Early identification and intervention to enhance students' school readiness, academic success, and use of good citizenship skills. This may include development of a system and procedures for periodic and universal screening, assessment, and early intervention for students who have significant risk factors for social, emotional, or mental health conditions that impact learning.
6. Treatment to prevent or minimize mental health conditions in students. This may include building and strengthening referral and follow-up procedures for providing effective clinical services for students with social, emotional, and mental health conditions that impact learning. This may include student and family support services, school-based behavioral health services, and school-community linked services and supports.
7. Assessment and accountability for teaching SEL skills to all students. This may include implementation of a process to assess and report baseline information and ongoing progress

**Comment [AKL1]:** Policy text, legal references, and cross references are updated to reflect the materials developed on Social Emotional Learning (SEL) over the last 5 years. These materials were developed by the taskforce of IASE and III Children's Mental Health Partnership.

The former version of the policy is sufficient because boards have discretion to how they incorporate social emotional learning (SEL) standards in their Cooperatives' curriculums and other educational programs. However, this updated version better reflects the SEL standards with benchmarks, descriptors and indicators that have been developed in the years since the Children's Mental Health Act of 2003 was passed.

**Issue 80, October 2012**

**Comment [AKL2]:** The board may replace the sample objectives with its own local objectives.

**Issue 80, October 2012**

about school climate, students' social and emotional development, and academic performance.

LEGAL REF.: Children's Mental Health Act of 2003, 405 ILCS 49/.

CROSS REF.: 1:30, (School Cooperative Philosophy), 6:10 (Educational Philosophy and Objectives), 6:40 (Curriculum Development), 6:60 (Curriculum Content), 6:270 (Guidance and Counseling Program), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:180 (Preventing Bullying, Intimidation, and Harassment), 7:250 (Student Support Services)

ADOPTED:

Please Compare to Current Board Policy 6:65

or

Consider adding the policy to your manual if it is not now included

# DRAFT UPDATE

Mid-Valley Special Education Cooperative

6:110

## Instruction

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

The Executive Director 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
- Community agency services
- Alternative learning opportunities program, in conformity with the Alternative Learning Opportunities Law, as it may be amended from time to time
- Graduation incentives program
- Remediation program

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

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 program.

LEGAL REF.: 105 ILCS 5/2-3.41, 5/2-3.64, 5/2-3.66, ~~5/2-3.66b~~, 5/13B-1 et seq., 5/26-2a, 5/26-13, 5/26-14, and 5/26-16.  
~~23 Ill. Admin. Code Part 210.~~

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

ADOPTED: June 7, 2012

Comment [AKL1]: Legal References are updated.  
Issue 80, October 2012

# DRAFT UPDATE

Mid-Valley Special Education Cooperative

6:210

## Instruction

### Instructional Materials

All Cooperative classrooms and learning centers should be equipped with an evenly-proportioned, wide assortment of instructional materials, including textbooks, workbooks, audio-visual materials, and electronic materials. These materials should provide quality learning experiences for students and:

1. Enrich and support the curriculum;
2. Stimulate growth in knowledge, literary appreciation, aesthetic values, and ethical standards;
3. Provide background information to enable students to make informed judgments and promote critical reading and thinking;
4. Depict in an accurate and unbiased way the cultural diversity and pluralistic nature of American society; and
5. Contribute to a sense of the worth of all people regardless of sex, race, religion, nationality, ethnic origin, sexual orientation, disability, or any other differences that may exist.

The Executive Director or designee shall annually provide a list or description of textbooks and instructional materials used in the Cooperative to the Board. Anyone may inspect any textbook or instructional material.

No movie above the PG rating shall be shown to students in elementary grades unless prior approval is received from the Executive Director or designee. No R rated movie shall be shown to high school students unless prior approval has been received from the Executive Director or designee. These restrictions apply to television programs and other media with equivalent ratings. Parents/guardians shall be given the opportunity to request that their child not participate in a class showing a movie, television program, or other media with an "R" or equivalent rating. No movie rated NC-17 (no one 17 and under admitted) shall be shown under any circumstances.

### Instructional Materials Selection and Adoption

The Executive Director shall approve the selection of all textbooks and instructional materials according to the standards described in this policy. The School Code governs the adoption and purchase of textbooks and instructional materials.

LEGAL REF.: 105 ILCS 5/10-20.8, 5/10-20.9, and 5/28-19.1.

CROSS REF.: 6:30 (Organization of Instruction and Curriculum Development), 6:80 (Teaching About Controversial Issues), 6:260 (Complaints About Curriculum, Instructional Materials, and Programs), 7:10 (Equal Educational Opportunities), 7:15 (Student and Family Privacy Rights), 8:110 (Public Suggestions and Complaints)

ADOPTED: May 2, 2012

**Comment [AKL1]:** The added words are intended to allow needed flexibility because some instructional materials, e.g. Internet materials, are difficult to list.

This paragraph is optional; either or both sentences may be struck, although the second sentence describes a right granted by statute. The requirement to provide the board with a list or description of texts and instructional material allows the board to monitor this policy's implementation. Moreover, as 105 ILCS 5/28-19.1 grants anyone the right to inspect texts and instructional materials, having an annual list of texts and instructional materials facilitates compliance with such a request. Because some instructional materials, e.g., Internet sites, are difficult to list, the sample policy permits a list or description.

Issue 80, October 2012