

Students

Orders to Forgo Life-Sustaining Treatment ¹

Written orders from parents/guardians to forgo life-sustaining treatment for their child must be signed by the student's physician and given to the Superintendent. This policy shall be interpreted in accordance with the Illinois Health Care Surrogate Act. 755 ILCS 40/. ²

Whenever an order to forgo life-sustaining treatment is received, the Superintendent shall convene a multi-disciplinary team that includes:

1. The student, when appropriate;
2. The student's parents/guardians;
3. Other medical professionals, e.g., licensed physician, physician's assistant, or nurse practitioner;
4. Local first responders for the building in which the student is assigned to attend school; ³
5. The school nurse;
6. Clergy, if requested by the student or his or her parents/guardians;
7. Other individuals to provide support to the student or his or her parents/guardians; and
8. School personnel designated by the Superintendent. ^{4 5}

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

¹ This policy is optional. State or federal law controls this policy's content. This policy concerns an area in which the law is unsettled in that there is no statute or binding decision resolving competing interests and providing direction to schools for handling *do not resuscitate* (DNR) orders or Practitioner Orders for Life-Sustaining Treatment (POLST) forms. For information on the Ill. Dept. of Public Health's Uniform POLST Form, see <https://dph.illinois.gov/topics-services/health-care-regulation/nursing-homes/advance-directives/polst-guidance-health-care.html#completing-reviewing-polst-form>.

² The Health Care Surrogate Act grants parents and court-appointed guardians the authority to decide whether to forgo life-sustaining treatment on behalf of their minor child in certain situations. 755 ILCS 40/20. The child must suffer a *qualifying condition*, which means the existence of a terminal condition, permanent unconsciousness, or an incurable or irreversible condition. These terms are defined in the Act.

The Act does not address the obligation of school staff members to comply with orders to forgo life-sustaining treatment, including DNR orders and POLST forms. Rather, the Act is silent regarding directives on life-sustaining care outside a health care facility or performed by a non-health care provider. The law does, however, indicate who should be the ultimate decision maker – the parents/guardians. School officials should use the Act, after consulting the school board's attorney, as a guideline.

³ Municipal and/or village ordinances may affect response time and care from first responders.

⁴ Consult the board attorney regarding the establishment of a multi-disciplinary team and whether attendance at meetings is necessary. Implementing orders to forgo life-sustaining care implicates the laws prohibiting discrimination on the basis of a disability. IDEA, 20 U.S.C. §1401; Section 504, 29 U.S.C. §794; ADAAA, 42 U.S.C. §12101 *et seq.*, amended by the Americans with Disabilities Act Amendments Act (ADAAA), Pub.L. 110-325 and modified by the Lilly Ledbetter Fair Act, Pub.L. 111-2. A school agreeing to abide by such an order does so because of the disability's severity; a less severely disabled or non-disabled student would be treated differently. The U.S. Dept. of Education's Office for Civil Rights approved a policy that provided for a multi-disciplinary team to develop individually designed interventions. School staff members must use these interventions that might require honoring an order to forgo life-sustaining care. 21 IDELR 83 (3-31-94). This sample policy balances the interests of the parents/guardians with the district's obligation under federal law by using such a team. However, liability may exist when a district determines specific interventions and then does not provide them. See *In re Estate of Stewart*, 406 Ill.Dec. 345 (2nd Dist. 2016) (denying tort immunity to district, finding its response to a student's asthma attack was willful and wanton (which district disputed as a possible heart attack)); *In re Estate of Stewart*, 412 Ill.Dec. 914 (Ill. 2017) (school district's appeal denied).

The team shall determine guidelines to be used by school staff members in the event the child suffers a life-threatening episode at school or a school event. ⁶

District personnel shall convey orders to forgo life-sustaining treatment to the appropriate emergency or healthcare provider.

LEGAL REF.: Health Care Surrogate Act, 755 ILCS 40/
Cruzan v. Director, Missouri Dept. of Health, 497 U.S. 261 (1990).
In re C.A., a minor, 236 Ill.App.3d 594 (1st Dist. 1992).

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⁵ Consult the board attorney about requiring teachers and other non-administrative school employees to administer medical care and/or treatment to students who are subjects of orders to forgo life-sustaining treatment. Generally, only licensed (formerly certificated) school nurses and non-licensed (formerly non-certificated) registered professional nurses may be required to administer medication to students. See 105 ILCS 5/10-22.21b and f/n 1 in policy 7:270, *Administering Medicines to Students*.

⁶ The following are two optional sentences to add at the end of this paragraph:

Option 1: The Superintendent or designee will ensure minutes are taken that summarize the decisions and guidelines made during multi-disciplinary meetings and obtain signatures of the child's parents/guardians on the minutes of each multi-disciplinary meeting.

Option 2: The Superintendent or designee will monitor the effectiveness of the guidelines established during the multi-disciplinary meetings at times the multi-disciplinary team determines are necessary. Boards may choose either or both options.