

Operational Services

Identity Protection 1

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

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

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

1. All employees having access to social security numbers in the course of performing their duties shall be trained to protect the confidentiality of social security numbers. Training should include instructions on the proper handling of information containing social security numbers from the time of collection through the destruction of the information.
2. Only employees who are required to use or handle information or documents that contain social security numbers shall have access to such information or documents.
3. Social security numbers requested from an individual shall be provided in a manner that makes the social security number easily redacted if the record is required to be released as part of a public records request.
4. When collecting a social security number or upon request by an individual, a statement of the purpose(s) for which the District is collecting and using the social security number shall be provided. 4

5. Notification to an individual whenever his or her personal information was acquired by an unauthorized person; personal information is an individual’s name in combination with his or

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1 The Identity Protection Act, 5 ILCS 179/, requires that this subject matter be covered in policy and controls its content. The Act places greater limits on the use of SSNs than federal law. The Act defines *identity-protection policy* as “any policy created to protect social security numbers from unauthorized disclosure.” ~~Thus, the policy will be sufficient if it focuses exclusively on protecting the privacy and confidentiality of social security numbers. Each district must implement its identity protection policy before 6/1/2011 (5 ILCS 179/35).~~ *Social security number* is not capitalized in the Identity Protection Act (5 ILCS 179/5).

Another State law, the Personal Information Protection Act, 815 ILCS 530/, amended by P.A. 97-483, contains mandates for government agencies and local government. Attorneys disagree whether this Act applies to school districts. This Act contains requirements for: (1) notifying an owner of a security breach, and (2) disposing of material containing personal information (defined as the owner’s name combined with SSN, driver’s license number or State identification card number, and financial account information, including without limitation, credit or debit card numbers).

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

3 Items 1-4 in this numbered list must be covered in board policy (5 ILCS 179/35(a)).

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

her social security number, driver's license number or State identification card number, or financial account information. 5

6. Disposal of materials containing personal information in a manner that renders the personal information unreadable, unusable, and undecipherable; *personal information* has the meaning stated in #5, above.

5.7. All employees must be advised of this policy's existence and a copy of the policy must be made available to each employee. The policy must also be made available to any member of the public, upon request. 6

No District employee shall collect, store, use, or disclose an individual's social security number unless specifically authorized by the Superintendent. 7 This policy shall not be interpreted as a guarantee of the confidentiality of social security numbers and/or other personal information. The District will use best efforts to comply with this policy, but this policy should not be construed to convey any rights to protection of information not otherwise afforded by law.

LEGAL REF.: 5 ILCS 179/, Identity Protection Act.

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

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

6 Item #7 is not required to be in the policy but districts are required to perform the described action (5 ILCS 179/35(b)). These compliance measures are covered in administrative procedure 4:15-AP, *Protecting the Privacy of Social Security Numbers*.

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

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

Operational Services

Waiver of Student Fees 1

The Superintendent will recommend to the School Board a schedule of fees, if any, to be charged students for the use of textbooks, consumable materials, extracurricular activities, and other school student fees. Students must also pay for the loss of or damage to school books or other school-owned materials.

Fees for textbooks, other instructional materials, and driver education are waived for students who meet the eligibility criteria for a fee waiver as described in this policy. **2** In order that no student is denied educational services or academic credit due to the inability of parents/guardians to pay student fees, the Superintendent will recommend to the Board which additional fees, if any, the District will waive for students who meet the eligibility criteria for fee waiver. **3** Students receiving a fee waiver are not exempt from charges for lost and damaged books, locks, materials, supplies, and equipment. **4**

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1 State law requires this subject matter be covered by policy and controls its content (105 ILCS 5/10-20.13; 23 Ill.Admin.Code §1.245). State law provides that “[n]o discrimination or punishment of any kind, including the lowering of grades or exclusion from classes, may be exercised against a student whose parents or guardians are unable to purchase required textbooks or instructional materials or to pay required fees,” (105 ILCS 5/28-19.2). This policy concerns an area in which the law is unsettled (see footnotes 2 and 3).

2 Districts must waive textbooks fees (105 ILCS 5/10-20.13) and driver education fees (105 ILCS 5/27-~~23~~ **24.2**) for students whose parents/guardians are unable to afford them. In order to effectuate the law’s intent, the term “textbook” should be interpreted broadly to include fees for instructional materials, laboratory fees, and workbooks. The enforceability of 105 ILCS 5/10-20.13(b) and implementing ISBE regulations (23 Ill.Admin.Code §1.245) requiring districts to waive “other fees” is questionable because they are unfunded mandates. ISBE regulations on school fees may not be enforceable because the General Assembly failed to make necessary appropriations (see the Weekly Message from State Superintendent Robert Schiller, 8-15-03).

A school district may charge up to \$50 ~~for district residents between 15 and 21 years of age to students~~ who participate in the driver education course. ~~The fee may be increased up to \$250, provided the district completes the requirements in section 27-24.2.~~ The fee must be waived for any ~~such resident student~~ who is unable to pay. ~~When space permits, the district also may provide driver education for residents above age 55 who have never been licensed to drive and may charge a fee not to exceed actual costs of the course~~ (105 ILCS 5/27-~~24.2~~, 23); ~~Ill.Admin.Code §252.30~~.

Resident tuition fees are not permissible. Hamer v. Board of Education, School District No. 109, 292 N.E.2d 569 (Ill.App. 2, 1977); Polzin v. Rand, McNally & Co., 95 N.E. 623 (1911).

3 105 ILCS 5/10-20.13(b) was added in 1983 to require districts to waive “other fees” in addition to the costs of textbooks (P.A. 83-603). The General Assembly, however, never appropriated the necessary funds. Thus, the amendment may be unenforceable because it violated the State Mandates Act (30 ILCS 805/1; see above footnote). Use the following alternative if the board wants to make a longstanding commitment to waive specific fees, amending the list of fees that will be waived as desired:

In order that no student is denied educational services or academic credit due to the inability of parents/guardians to pay fees, the following fees are also waived for students who meet the eligibility criteria for fee waiver: athletic participation fees, lock fees, towel fees, shop fees, laboratory fees, and registration fees.

Alternatively, a board may decide to waive all school student fees and substitute the following sentence for the first 2 sentences of this paragraph:

All school student fees as defined by the Illinois State Board of Education (ISBE) are waived for students who meet the eligibility criteria for a fee waiver contained in this policy.

4 Districts in which a referendum was approved to provide students with free textbooks must have a policy on textbook care and preservation (105 ILCS 5/28-17). The textbook loan program operated by the ISBE is found at 105 ILCS 5/18-17.

Notification

The Superintendent shall ensure that applications for fee waivers are widely available and distributed according to State law and ISBE rule and that provisions for assisting parents/guardians in completing the application are available.

Eligibility Criteria

A student shall be eligible for a fee waiver when the student currently lives in a household that meets the same income guidelines, with the same limits based on household size, that are used for the federal free meals program. ⁵

The Superintendent or designee will give additional consideration where one or more of the following factors are present: ⁶

- Illness in the family;
- Unusual expenses such as fire, flood, storm damage, etc.;
- Unemployment;
- Emergency situations;
- When one or more of the parents/guardians are involved in a work stoppage.

Verification ⁷

The Superintendent or designee shall establish a process for determining a student's eligibility for a waiver of fees in accordance with State law requirements. The Superintendent or designee may require family income verification at the time an individual applies for a fee waiver and anytime thereafter but not more often than once every 60 calendar days. The Superintendent or designee shall

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⁵ Required by 105 ILCS 5/10-20.13, ~~amended by P.A. 96-360~~. The federal free meals program is found at 42 U.S.C. §1758; 7 C.F.R. Part 245. A board has a choice regarding verification – it may: (1) establish a process to determine eligibility for fee waivers that is completely independent of the federal free meals eligibility guidelines, or (2) tie the application for fee waivers to the free meals program and only ask for *verification* in accordance with the free or reduced-price meals program. This sample policy assumes that option #1 will be chosen but would allow for option #2 if the alternative is used in the *Verification* section. See footnote 7.

⁶ This paragraph is optional and may be omitted.

⁷ By using a process for determining eligibility for fee waivers that is completely separate from the process for determining eligibility for free meals, a district may require income verification at the time an application is submitted for a fee waiver and may do so thereafter, but not more than once every 60 calendar days. 105 ILCS 5/10-20.13, ~~amended by P.A. 96-360~~; 23 Ill.Admin.Code §1.245(d). Income verification may include such things as payroll stubs, tax returns, or evidence of receipt of food stamps or Temporary Assistance for Needy Families.

An application for fee waivers that is completely separate from the application for free lunches cannot ask whether a student lives in a household that meets free lunch eligibility guidelines and request income verification with reference to *free lunch* eligibility guidelines. In the completely separate fee waiver application, the district should supply its own income guidelines with the same limits based on household size that are used for the federal meals program and have the parents indicate if they meet the income guidelines used to determine eligibility for *fee waivers*. The independent fee waiver income guidelines should not be any higher than those for eligibility for free lunch (or reduced-price, if the district voluntarily provides fee waivers for those students who qualify), but the district should not reference or indicate that the guidelines are for the free meals program. In this completely separate application process for fee waivers, the district may ask for verification, but cannot use any information it receives for fee waiver verification though this process for determining eligibility for free or reduced meals.

Alternatively, a board should replace both paragraphs in this section with the following alternative if it wants to use eligibility guidelines for free meals as the basis for waiving school fees:

The Superintendent or designee must follow the verification requirements of 7 C.F.R. 245.6a when using the free lunch or breakfast eligibility guidelines pursuant to The National School Lunch Act as the basis for waiver of the student's fee(s).

not use any information from this or any independent verification process to determine free or reduced-price meal eligibility.

If a student receiving a fee waiver is found to be no longer eligible during the school year, the Superintendent or designee shall notify the student's parent/guardian and charge the student a prorated amount based upon the number of school days remaining in the school year.

Determination and Appeal **8**

Within 30 calendar days after the receipt of a waiver request, the Superintendent or designee shall mail a notice to the parent/guardian whenever a waiver request is denied. The denial notice shall include: (1) the reason for the denial, (2) the process and timelines for making an appeal, and (3) a statement that the parent/guardian may reapply for a waiver any time during the school year if circumstances change. If the denial is appealed, the District shall follow the procedures for the resolution of appeals as provided in the Illinois State Board of Education rule on waiver of fees.

LEGAL REF.: 105 ILCS 5/10-20.13, 5/10-22.25, [5/27-24.2](#), and 5/28-19.2.
23 Ill.Admin.Code §1.245 [may contain unenforceable provisions].

CROSS REF.: 4:130 (Free and Reduced-Price Food Services), [6:220 \(Bring Your Own Technology \(BYOT\) Program; Responsible Use and Conduct\)](#)

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8 An ISBE rule requires that the policy state that the district will mail a copy of a denial notice within 30 calendar days after the receipt of the waiver request (23 Ill.Admin.Code §1.245(c)(3)). This rule also specifies timelines and procedures, including a requirement that “the person who decides the appeal shall not be the person who initially denied the fee waiver or a subordinate of this person.” Thus, a board may be required to hear an appeal if the superintendent made the initial decision to deny a fee waiver. The board’s participation is avoided by the principal making initial fee waiver decisions and the superintendent or other main office administrator deciding the appeals.

Operational Services

Safety 1

Safety Program

All District operations, including the education program, shall be conducted in a manner that will promote the safety of everyone on District property or at a District event. ²

The Superintendent or designee shall develop and implement a comprehensive safety and crisis plan incorporating both avoidance and management guidelines. ³ The comprehensive safety and crisis plan shall specifically include provisions for: injury prevention; bomb threats, weapons, and explosives on campus; school safety drill program; ⁴ tornado protection; instruction in safe bus riding practices;⁵ emergency aid; post-crisis management; and, responding to medical emergencies at an indoor and outdoor physical fitness facility. ⁶ During each academic year, each school building that houses school children must conduct a minimum of: ⁷

1. Three school evacuation drills,
2. One bus evacuation drill,

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

² This simple end statement should be discussed (what effect or impact will this district statement have on the students and the community?) and altered accordingly before board adoption.

³ See administrative procedure 4:170-API, *Comprehensive Safety and Crisis Program*.

⁴ See the School Safety Drill Act, 105 ILCS 128/.

⁵ Required by 105 ILCS 128/20(b) and 105 ILCS 5/10-20.14 for all students.

⁶ The Physical Fitness Facility Medical Emergency Preparedness Act, 210 ILCS 74/, broadened the definition of physical fitness facility to include outdoor facilities. Entities operating a “physical fitness facility must adopt and implement a written plan for responding to medical emergencies that occur at the facility during the time that the facility is open for use by its members or by the public.” Administrative procedures, consistent with the Ill. Dept. of Public Health rules (77 Ill.Admin.Code Part 527), must support this policy in order to comply with the law.

A school with a physical fitness facility must ensure that there is a trained AED user on staff during staffed business hours (210 ILCS 74/15 (b). “During staffed business hours” is not well defined and may change based upon the school’s various circumstances. *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 (210 ILCS 74/5.25). Schools with an outdoor physical fitness facility must have an AED on site and a trained AED user available only during activities or events sponsored and conducted or supervised by a person or persons employed by the school (210 ILCS 74/15(b-15). There is no longer a requirement for a person supervising an activity at an outdoor physical fitness facility to bring an AED along if there is no building within 300 feet of the outdoor physical fitness facility (Id. at (b-10), amended by P.A. 96-1268). However, when there is a building within 300 feet of the outdoor facility where an event or activity is being conducted, an AED must still be housed within that building and the building must provide unimpeded and open access to the housed AED along with marked directions to it (Id.). Consult the board attorney about AED issues and how to manage compliance with the Act and its implementing rules.

Insert the following language if a board wants to define *physical fitness facility* in the policy:

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.

⁷ Required by the School Safety Drill Act, 105 ILCS 128/. 105 ILCS 5/2-3.12 authorizes fire officials to conduct routine fire safety checks, provided written notice is given to the principal requesting to schedule a mutually agreed upon time. No more than 2 routine inspections may be made in a calendar year. For information about documenting minimum compliance with the School Safety Drill Act, see www.isbe.net/safety/guide.htm.

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 District'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. **8**

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. **9**

The Superintendent or designee shall implement the Movable Soccer Goal Safety Act in accordance with the guidance published by the Illinois Department of Public Health. Implementation of the Act shall be directed toward improving the safety of moveable soccer goals by requiring that they be properly anchored. **10**

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8 Required by 105 ILCS 128/20(c). Schools must conduct a law enforcement drill to address incidents, including without limitation reverse evacuation, lock-downs, shooting, bomb threat, or hazardous materials. See ~~footnote- f/n #3~~ *supra*.

9 Cell phone use is addressed in 105 ILCS 5/10-20.28 (allows boards to regulate student use of cell phones; also see 7:190, *Student Discipline*) and 625 ILCS 5/12-610.1(e), amended by P.A. 97-830, eff. 1-1-13, (prohibits wireless telephone use at any time while operating a motor vehicle on a roadway in a school speed zone except for (1) highway construction or maintenance workers within their work zones, (2) any use for emergency purposes, (3) law enforcement officers or emergency responders performing their duties, (4) a person using a wireless telephone in voice-operated mode with or without use of a headset, and (5) a person with technology that uses a single button to initiate or terminate a voice communication, e.g., HandsFreeLink®).

625 ILCS 5/12-813.1 provides four exceptions that allow a bus driver to use a cell phone while operating a bus: (1) in an emergency situation to communicate with an emergency response operator; a hospital; a physician's office or health clinic; an ambulance service; a fire department, fire district, or fire company; or a police department; (2) in the event of a "mechanical breakdown or other mechanical problem;" (3) to communicate with school authorities about bus operation or the safety of a passenger on the bus; and (4) when the bus is parked. However, under no circumstances may the cell phone be used for anything else including personal use. See policy 4:110, *Transportation*, for a more detailed discussion of two-way radios and cellular telephone use.

10 The Movable Soccer Goal Safety Act, a/k/a *Zach's Law*, 430 ILCS 145/, added by P.A. 97-234. This paragraph is required only if the school district owns and controls a movable soccer goal, and it should be included in this policy only by those districts. The Act requires: (1) organizations that own and control a movable soccer goal to create a soccer goal safety and education policy that outlines how the organization will specifically address the safety issues associated with movable soccer goals, and (2) the Ill. Department of Public Health to provide technical assistance materials, which are available at: www.cpssc.gov/CPSCPUB/PUBS/soccer.pdf.

Convicted Child Sex Offender and Notification Laws 11

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 School Board, Superintendent, or Superintendent's designee. If permission is granted, the Superintendent or Board President shall provide the details of the offender's upcoming visit to the Building Principal.

In all cases, the Superintendent, or designee who is a certified employee shall supervise a child sex offender whenever the offender is in a child's vicinity. **12**

If a student is a sex offender, the Superintendent or designee shall develop guidelines for managing his or her presence in school. **13**

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11 Four laws are relevant to this section:

Paragraphs 1-3 contain the requirements in the Criminal Code, 720 ILCS 5/11-9.3, regulating a child sex offender's presence on school property;

Paragraph 4 concerns the Sex Offender Community Notification Law, 730 ILCS 152/101 *et seq.*, and Murderer and Violent Offender Against Youth Community Notification Law, 730 ILCS 154/75-105, amended by P.A. 97-154;

Paragraph 5 contains the requirements in the School Code concerning mandatory criminal history records checks on those contractors' employees who have a "direct, daily contact with students," (105 ILCS 5/10-21.9(f). Sample policy 5:30, *Hiring Process and Criteria*, and administrative procedure 5:30-AP2, *Investigations*, address the criminal offenses listed at 105 ILCS 5/21B-80, added by P.A. 97-607. Being convicted of one will disqualify an individual from work at the school district (105 ILCS 5/10-21.9, amended by P.A. 97-607). If the board president or district (see *f/n #17 infra*) receives information concerning the record of conviction as a sex offender of any contractor's employee, the district must provide the information to another school, school district, community college district, or private school that requests it (105 ILCS 5/10-21.9(h), amended by P.A. 97-248).

An Illinois federal court denied a father's request to enjoin a school's policy that prohibited him, as a child sex offender, from attending his children's school activities in *Doe v. Paris Union School Dist.*, No. 05-2249, 2006 WL 44304 (C.D.Ill., 2006).

12 720 ILCS 5/11-9.3. The statute assigns the child sex offender the "duty to remain under the direct supervision of a school official." In order to ensure this happens and to protect students, the sample policy requires the superintendent, or designee who is a certified employee, to supervise a child sex offender whenever the offender is in a child's vicinity. See also policy 8:30, *Visitors to and Conduct on School Property*.

13 Aside from rumor and notoriety, there are 3 ways that school officials may learn that an enrolled student is a sex offender or a violent offender against youth, that is:

1. By being informed by the student or the student's parent/guardian.
2. Through the Illinois State Police Sex Offender [Database Registry](http://www.isp.state.il.us/sor), www.isp.state.il.us/sor. A juvenile sex offender is listed there after the juvenile becomes 17 years old and will be listed for the remaining registration period (730 ILCS 150/2). The database is updated daily and allows searching by name, city, county, zip code, compliance status, or any combination thereof.
3. By receiving notification from a law enforcement agency that a juvenile sex offender or juvenile violent offender against youth is enrolled in a school. The law enforcement agency having jurisdiction to register the juvenile must provide a copy of the offender registration form to the building principal and guidance counselor designated by the

The Superintendent 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 Superintendent or designee shall serve as the District contact person for purposes of these laws. **14** The Superintendent 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. **15** This notification must occur during school registration and at other times as the Superintendent 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: **16**

principal; the school must keep the registration form separately from the student's school records (730 ILCS 152/121).

If a sex offender is enrolled in a school, guidelines for managing the sex offender's presence in school should be prepared. The components will depend on the situation but generally should include asking the parent/guardian of a sex offender below the age of 17 years for permission to share the information with certain staff for the protection of both the student and other students. In addition, the guidelines should include a supervision plan providing supervision for the student during all aspects of his or her school day. Finally, the guidelines must respect the privacy of juvenile records and comply with the Ill. School Student Records Act, 105 ILCS 10/. The board attorney should be consulted.

14 Law enforcement officials must notify school districts of the names, addresses, and offenses of registered offenders residing in their respective jurisdictions who have committed sex offenses and violent offenses against youth (see footnote 9). These laws are silent with regard to what, if anything, districts do with the information. The Sex Offender Community Notification Law, however, provides immunity for "any person who provides, or fails to provide, information relevant to the procedures set forth in this Law," (730 ILCS 152/130).

Naming a contact person will facilitate communication and cooperation with local law enforcement agencies. Any school official may be used as the contact person and boards may wish to have a contact person from each building. See administrative procedure 4:170-AP2, *Criminal Offender Notification Laws*, for sample implementing procedures.

15 State law requires a principal or teacher to notify the parents/guardians during school registration or parent-teacher conferences that information about sex offenders is available to the public as provided in the Sex Offender Community Notification Law, 730 ILCS 152/101 et seq. In an effort to keep this policy aligned with good governance practices, the responsibility is given to the superintendent and building principal to manage. While State law allows the notification to be made during registration or parent-teacher conferences, the sample policy makes a notification mandatory just during registration to be sure that all parents/guardians are informed.

16 105 ILCS 5/10-21.9, amended by P.A.s 97-248 and 97-607. Section 5/10-21.9(f) requires a criminal history records check, i.e., background investigation or background check, to be performed on those contractors' employees who have a *direct, daily contact with students*. State law places the same restrictions on contractors' employees that it does on district employees. The sample policy is more comprehensive by requiring checks for any contractor's employee who may work in any school building or on school property—after all, the burden. Its purpose is on the contractor to do the checking eliminate any uncertainty about the safety of students.

For districts that want their policy language to mirror the language in State law, replace: "any contact, direct or indirect" with "direct, daily contact." Board policy should address these issues:

- Who performs the background checks? For legal and practical reasons, ISBE's non-regulatory guidance document, *Criminal History Records Information (CHRI) Checks for Certified and Non-certified School Personnel*, places the responsibility on the district to (a) perform the background checks (20 ILCS 2635/) and (b) provide the contractor's employee with a copy with the results of his or her background check (20 ILCS 2635/7(A)(1).
- On whom are the background checks performed? State law requires the checks on those who have a direct, daily contact with students. It is virtually may be impossible to screen all contractors' employees. Thus However, a contractor should warrant that none of its employees who may have contact with a student at school has committed an offense that would prohibit district employment.
- On whom are the checks performed? State law requires the check on those who have a direct, daily contact with students. See the discussion in the first paragraph of this f/n addressing this sample policy's more comprehensive language.

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 District due to a conviction of a crime listed in 105 ILCS 5/10-21.9, amended by P.A.s 97-248 and 97-607, or who is listed in the Statewide Illinois Sex Offender Registry or the Statewide Illinois Murderer and Violent Offender Against Youth Database Registry. The contractor shall ~~obtain~~ make every employee who will be sent to any school building or school property available to the District for the purpose of submitting to a fingerprint-based criminal history records check pursuant to 105 ILCS 5/10-21.9. The check shall occur before ~~sending~~ any employee or agent is sent to any school building or school property. The contractor will reimburse the District for the costs of the checks. The District must also provide a copy of the report to the individual employee, but is not authorized to release it to the contractor. Additionally, at least quarterly, the contractor shall check if an employee or agent is listed on the Statewide Illinois Sex Offender Registry or the Statewide Illinois Murderer and Violent Offender Against Youth Database Registry.

If the District receives information that concerns the record of conviction as a sex offender of any employee of a District contractor, the District will provide the information to another school, school district, community college district, or private school that requests it. **17**

Unsafe School Choice Option 18

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

1. All students attending a persistently dangerous school, as defined by State law and identified by the Illinois State Board of Education.

- How is compliance assured? This sample policy requires the inclusion of a clause in district contracts prohibiting the use of any sex offender on school property employee with a conviction listed under Section 21B-80 of the School Code on school property. The inclusion of a contract clause in district contracts ensures the background check is performed pursuant to State and federal law and outlines each party's responsibilities for accomplishing it.

See administrative procedure 5:30-AP2, *Investigations*. For more information on managing background checks for contractor's employees, see ISBE's non-regulatory guidance document, Criminal History Records Information (CHRI) Checks for Certified and Non-certified School Personnel, at: www.isbe.net/pdf/guidance_chr.pdf.

17 Id. at 5/10-21.9(h), amended by P.A. 97-248. The School Code defines the board president's role in conducting criminal background investigations and receiving the results of these investigations. Many districts delegate this task to a human resource department. However, because the report involves a contractor's employee, the immunity provisions in the Employment Record Disclosure Act (745 ILCS 46/10) may not apply. Consult the board attorney based upon this and all relevant employment record disclosure laws. See policy 5:150, *Personnel Records*, f/n #4 for more discussion about employment record disclosure laws. See also f/n #16's citation to ISBE's non-regulatory guidance document.

18 A policy provision is required on this topic (105 ILCS 5/10-21.3a). See also 20 U.S.C. §7912. ISBE maintains a list of persistently dangerous schools. Districts having only one school may substitute the following provision for this paragraph:

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

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

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

2. Any student who is a victim of a violent criminal offense, as defined by 725 ILCS 120/3, that occurred on school grounds during regular school hours or during a school-sponsored event.

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

Student Insurance ¹⁹

The Board shall annually designate a company to offer student accident insurance coverage. The Board does not endorse the plan nor recommend that parents/guardians secure the coverage, and any contract is between the parents/guardians and the company. Students participating in athletics, cheerleading, or pompons must have school accident insurance unless the parents/guardians state in writing that the student is covered under a family health insurance plan.

Emergency Closing

The Superintendent 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. ²⁰

LEGAL REF.: [Adam Walsh Child Protection and Safety Act, P.L. 109-248.](#)
[Uniform Conviction Information Act, 20 ILCS 2635/.](#)
105 ILCS 5/10-20.28, 5/21B-80, 5/10-21.9, and 128/.
[Physical Fitness Facility Medical Emergency Preparedness Act,](#) 210 ILCS 74/.
[Ill. Vehicle Code,](#) 625 ILCS 5/12-813.1.
[Criminal Code of 2012,](#) 720 ILCS 5/11-9.3.
[Unified Code of Corrections,](#) 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)

ADMIN. PROC.: 4:170-AP2 (Criminal Offender Notification Laws), 4:170-AP3 (School Bus Safety Rules), 4:170-AP6 (Plan for Responding to a Medical Emergency at a Physical Fitness Facility with an AED), 5:30-AP2 (Investigations)

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

¹⁹ This subhead is optional. 105 ILCS 5/22-15 allows districts to purchase insurance on athletes. A form on which parents/guardians check-off whether they want school accident insurance or already have the student covered by other health insurance will suffice for purposes of this policy. Requiring students participating in athletics to have accident insurance is a best practice because: (1) waivers of liability do not prevent a student from bringing suit, and (2) waivers of liability are not favored by Illinois courts.

²⁰ When adverse weather conditions force a school's closing or a delayed start, the district may count a partial day of attendance as a full day for State aid purposes, provided: (1) at least one hour of instruction was provided, and (2) the superintendent provides the Regional Superintendent or the Suburban Cook County Intermediate Service Center, whichever is appropriate, with a written report in support of the partial day within 30 days (105 ILCS 5/18-12). P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to the Intermediate Service Center for the area.

General Personnel

Drug- and Alcohol-Free Workplace; Tobacco Prohibition ¹

All District workplaces are drug- and alcohol-free workplaces. All employees ~~shall be~~ are prohibited from engaging in any of the following activities while on District premises or while performing work for the District:

1. Unlawful manufacture, dispensing,² distribution, possession, use, or being under the influence ³ of a controlled substance. ~~while on District premises or while performing work for the District, and~~
2. Distribution, consumption, use, possession, or being under the influence⁴ of alcohol. ⁵ ~~while on District premises or while performing work for the District.~~

For purposes of this policy a controlled substance means a substance that is:

1. Not legally obtainable,
2. Being used in a manner different than prescribed,
3. Legally obtainable, but has not been legally obtained, or
4. Referenced in federal or State controlled substance acts.

As a condition of employment, each employee shall: ⁶

1. Abide by the terms of the District Board policy respecting a drug- and alcohol-free workplace; and
2. Notify his or her supervisor of his or her conviction under any criminal drug statute for a violation occurring on the District premises or while performing work for the District, no later than 5 calendar days after such a conviction.

~~In order~~ To make employees aware of the dangers of drug and alcohol abuse, the ~~District will Superintendent or designee shall perform each of the following:~~ ⁷

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

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

The federal Drug-Free Workplace Act applies only to the specific programs receiving federal funds (41 U.S.C. §701 et seq.). This policy, however, makes its requirements applicable to all employees in order to avoid confusion during implementation and to avoid complications when obtaining federal funds.

The federal Safe and Drug-Free Schools and Communities Act provides funds, upon application, for drug and violence prevention programs; it does not contain policy mandates. Illinois also has a Drug Free Workplace Act (30 ILCS 580/). It applies to districts with 25 or more employees working under a state contract or a grant of \$5,000 or more.

² *Manufacture* and *dispensing* are prohibited by the federal and State Workplace Acts.

³ *Being under the influence* is not required by law; *use* may cover this. *Being under the influence of* is more difficult to prove and implies the use of testing; it may be omitted.

⁴ *Id.*

⁵ Optional; alcohol is not addressed in either the federal or State Drug-Free Workplace Acts.

⁶ Required by the State and federal Drug-Free Workplace Acts.

⁷ Required by the State and federal Drug-Free Workplace Acts (30 ILCS 580/3).

1. Provide each employee with a copy of ~~the District Drug and Alcohol Free Workplace~~ this policy.⁸
2. Post notice of ~~the District Drug and Alcohol Free Workplace~~ this policy in a place where other information for employees is posted.⁸
3. Make available materials from local, State, and national anti-drug and alcohol-abuse organizations.⁹
4. Enlist the aid of community and State agencies with drug and alcohol informational and rehabilitation programs to provide information to District employees.⁸
5. Establish a drug-free awareness program to inform employees about:
 - a. The dangers of drug abuse in the workplace,
 - b. Available drug and alcohol counseling, rehabilitation, re-entry, and any employee assistance programs, and
 - c. The penalties that the District may impose upon employees for violations of this policy.

Tobacco Prohibition 10

All employees are covered by the conduct prohibitions contained in policy 8:30, Visitors to and Conduct on School Property. The prohibition on the use of tobacco products applies both (1) when an employee is on school property, and (2) while an employee is performing work for the District at a school event regardless of the event's location. Tobacco shall have the meaning provided in section 10-20.5b of the School Code.

District Action Upon Violation of Policy

An employee who violates this policy may be subject to disciplinary action, including termination. **11** Alternatively, the School Board may require an employee to successfully complete an appropriate drug- or alcohol-abuse ~~employee assistance~~ rehabilitation program.

The Board shall take disciplinary action with respect to an employee convicted of a drug offense in the workplace within 30 days after receiving notice of the conviction. **12**

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

⁸ As an alternative, replace the phrase "in a place where other information for employees is posted" with the district's local method (e.g., staff intranet, Internet, etc.).

⁹ Grants may be available from the State Board of Education for developing a drug-free awareness program (105 ILCS 5/2-3.93). The drug-free awareness program requirement can be met by developing a brochure on drug abuse or by contacting local, State, or national anti-drug abuse organizations for materials. The materials should be distributed to employees along with a list of places employees may call for assistance.

¹⁰ 105 ILCS 5/10-20.5b and 410 ILCS 82/. Federal law prohibits smoking inside schools (20 U.S.C. §6081). The prohibition in 8:30, Visitors to and Conduct on School Property, referred to here, applies "on school property or at a school event." Here, "at a school event" is clarified with the phrase "while ... performing work for the District" in order to align with this policy's other prohibitions.

¹¹ An employee who currently uses illegal drugs is not protected under the Americans With Disabilities Act (ADA) when the district acts on the basis of such use (42 U.S.C. §12114). Drug abusers and alcoholics may still be protected as *handicapped* under the Rehabilitation Act of 1973 (29 U.S.C. §706 et seq.) or the Illinois Human Rights Act (775 ILCS 5/1-101 et seq.; 56 Ill.Admin.Code §2500.20). The Rehabilitation Act, however, excludes from protection "an alcohol or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment ... would constitute a direct threat to the property or the safety of others," (29 U.S.C. §706 (7)(B)).

The ADA neither authorizes nor prohibits drug testing; it allows the results of such tests to be used as the basis for disciplinary action (42 U.S.C. §12114; 29 C.F.R. §1630.16 (c)). Drug tests may still violate other laws, e.g., Title VI and the Rehabilitation Act (42 U.S.C. §2000e et seq.; and 29 U.S.C. §706 et seq.).

¹² Required by both the federal and State Drug-Free Workplace Acts.

Should District employees be engaged in the performance of work under a federal contract or grant, or under a State contract or grant of \$5,000 or more, the Superintendent shall notify the appropriate State or federal agency from which the District receives contract or grant monies of the employee's conviction within 10 days after receiving notice of the conviction. **13**

LEGAL REF.: Americans With Disabilities Act, 42 U.S.C. §12114.
Controlled Substances Act, 21 U.S.C. §812; 21 C.F.R. §1308.11-1308.15.
Drug-Free Workplace Act of 1988, 41 U.S.C. §701 et seq.
Safe and Drug-Free School and Communities Act of 1994, 20 U.S.C. §7101 et seq.
Drug-Free Workplace Act, 30 ILCS 580/
[105 ILCS 5/10-20.5b.](#)

[CROSS REF.: 8:30 \(Visitors to and Conduct on School Property\)](#)

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

Professional Personnel

Student Teachers 1

The Superintendent is authorized to accept students from university-approved teacher-training programs to do student teaching in the District. Prior to a student teacher beginning any field experiences in the District, the Superintendent or designee shall coordinate with each student teacher's higher education institution a fingerprint-based will ensure that the District performs a complete criminal history records check and pursuant to 105 ILCS 5/10-21.9; i.e. background check or background investigation.

A complete criminal history records check pursuant to 105 ILCS 5/10-21.9 shall include:

1. Fingerprint-based checks through (a) the Illinois State Police (ISP) for criminal history records information (CHRI) pursuant to the Uniform Conviction Information Act (20 ILCS 2635/1), and (b) the FBI national crime information databases pursuant to the Adam Walsh Child Protection and Safety Act (P.L. 109-248);
2. A check of the Statewide Illinois Sex Offender Database and Statewide Registry (see the Sex Offender Community Notification Law (730 ILCS 152/101 et seq.); and
3. A check of the Illinois Murderer and Violent Offender Against Youth Database prior to any participation in field experiences in a school Registry (Murderer and Violent Offender Against Youth Community Notification Law (730 ILCS 154/75-105, amended by 97-154).

Each student teacher must provide written authorization for, and pay the costs of, his or her criminal history records check (including any applicable vendor's fees), and the Superintendent or designee will provide each student teacher with a copy of his or her report. 2

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

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

This sample policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions which exceed these requirements. When a policy's subject matter is superseded by a bargaining agreement, the school board policy may state, "Please refer to the current Professional Agreement between the Classroom Teachers' Association and the Board of Education."

² 105 ILCS 5/10-21.9(g), amended by P.A. 96-1452, 97-154, and 97-607, requires a person student teacher to authorize undergo a fingerprint-based State and national criminal history records check and checks of the Statewide Sex Offender Database Registry and Statewide Murderer and Violent Offender Against Youth Database Registry prior to participating in any field experiences in the school. The statutory phrase "...prior to participating in any field experiences" involves student teaching only. For information about criminal history records checks for students doing field or clinical experience other than student teaching, see the subhead Students Doing Field or Clinical Experience other than Student Teaching in 4:170-AP2, Criminal Offender Notification Laws.

20 ILCS 2635/7(A) requires the student teacher's written authorization and a district to provide a copy of the reports, and 105 ILCS 5/10-21.9 requires the student teacher to pay for the costs of the criminal history records check. LiveScan is the recommended equipment for criminal history records checks. The language in this policy does not distinguish whether the district uses an authorized LiveScan vendor or owns or leases its own LiveScan equipment. Delete "(including applicable vendor's fees)" if the district owns or leases its own LiveScan equipment.

For more guidance and information on navigating the records laws surrounding criminal history records checks, along with a LiveScan vendor directory, see ISBE's non-regulatory guidance document, Criminal History Records Information (CHRI) Checks for Certified and Non-certified School Personnel, available at: www.isbe.net/pdf/guidance_chr.pdf.

Assignment

The Superintendent or designee shall be responsible for coordinating placements of all student teachers within the District. Student teachers should be assigned to supervising teachers whose qualifications are acceptable to the District and the students' respective colleges or universities. A teacher may be eligible for Continuing Professional Development Units (CPDU) for supervising a student teacher or teacher education candidate in clinical supervision. ³

LEGAL REF.: [Adam Walsh Child Protection and Safety Act, P.L. 109-248.](#)
[Uniform Conviction Information Act, 20 ILCS 2635/1.](#)
105 ILCS 5/21-14(e)(3)(E)(viii) [and](#) 5/10-22.34.
23 Ill.Admin.Code § 25.875.

CROSS REF.: 5:190 (Teacher Qualifications)

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.
³ 105 ILCS 5/21-14(e)(3)(E)(viii); 23 Ill.Admin.Code § 25.875.

Educational Support Personnel

Sick Days, Vacation, Holidays, and Leaves ¹

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

Sick and Bereavement Leave ²

Full or part-time educational support personnel who work at least 600 hours per year receive 10 paid sick leave days per year. Part-time employees will receive sick leave pay equivalent to their regular workday. Unused sick leave shall accumulate to a maximum of 180 days, including the leave of the current year. ³

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

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

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

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. Alternatively, if the policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the current [insert name of educational support CBA]."

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

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

² This section contains the minimum benefits provided by 105 ILCS 5/24-6. Each specified number of days in this section is the statutory minimum. Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements. Strict accounting of unused sick days is important to avoid inconsistent treatment and to ensure accurate reporting to IMRF (credit is given for full day unused sick days upon retirement).

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

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

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

Vacation ⁵

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

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

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

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

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

⁴ 105 ILCS 5/24-6.

⁵ State law does not require districts to give employees vacations.

⁶ Required by 820 ILCS 115/5.

Holidays 7

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

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

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

Personal Leave 8

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

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

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

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

Other Leaves

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

1. Leaves for Service in the Military and General Assembly. ¹⁰

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

⁷ ~~Found~~ Holidays are listed in 105 ILCS 5/24-2. For information on the waiver process, see 2:20-E, Waiver and Modification Request Resource Guide.

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

⁸ State law does not address personal leave.

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

2. School Visitation Leave. **11**
3. Leaves for Victims of Domestic or Sexual Violence. **12**

LEGAL REF.: 20 ILCS 1805/30.1 et seq.
105 ILCS 5/10-20.7b, 5/24-2, and 5/24-6.
820 ILCS 147 and 180/1 et seq.

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

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

Granting General Assembly leave to ESPs is optional.

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

12 Required by Victims’ Economic Security and Safety Act, 820 ILCS 180/, and 56 Ill.Admin.Code §280. Important information about this leave is discussed in the footnotes in policy 5:250, *Professional Personnel - Leaves of Absence*.

Instruction

Extracurricular and Co-Curricular Activities 1

The Superintendent must approve an activity in order for it to be considered a District-sponsored extracurricular or co-curricular activity, using the following criteria:

1. The activity will contribute to the leadership abilities, social well-being, self-realization, good citizenship, or general growth of student-participants.
2. Fees assessed students are reasonable and do not exceed the actual cost of operation.
3. The District has sufficient financial resources for the activity.
4. Requests from students.
5. The activity will be supervised by a school-approved sponsor.

Non-school sponsored student groups are governed by School Board policy, 7:330, *Student Use of Buildings - Equal Access*. 2

Academic Criteria for Participation

For students in kindergarten through 8th grade, 3 selection of members or participants is at the discretion of the teachers, sponsors, or coaches, provided that the selection criteria conform to the District’s policies. Students must satisfy all academic standards and must comply with the activity’s rules and the student conduct code.

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

1 Each school board in a district that maintains any of grades 9-12 must have a *no pass-no play* policy (105 ILCS 5/10-20.30). State or federal law controls some aspects of this policy’s content. The criteria for determining whether to sponsor a specific activity is a local board decision, except that an ISBE rule requires that the desires of the student body be considered (23 Ill.Admin.Code §1.420).

As State law does not define extracurricular or co-curricular, a board may desire to explain these terms in the policy, such as by including the following option at the beginning of the policy:

Extracurricular or co-curricular activities are school-sponsored programs for which some or all of the activities are outside the instructional day. They do not include field trips, homework, or occasional work required outside the school day for a scheduled class. *Co-curricular activity* refers to an activity associated with the curriculum in a regular classroom and is generally required for class credit. *Extracurricular activity* refers to an activity that is not part of the curriculum, is not graded, does not offer credit, and does not take place during classroom time; it includes competitive interscholastic activities and clubs.

In January 2013, the U.S. Dept. of Education, Office for Civil Rights, issued a Dear Colleague Letter concerning the participation of students with disabilities in extracurricular athletic activities. It clarifies the types of accommodations and services that districts must provide pursuant to Section 504. See www2.ed.gov/about/offices/list/ocr/letters/colleague-201301-504.html.

2 *Non-curriculum related* extracurricular activities that meet during non-instruction time in secondary schools trigger the Equal Access Act, 20 U.S.C. §4071 *et seq.* The Equal Access Act prohibits the school from denying fair opportunity or *equal access* to any students who wish to conduct a meeting within a limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such a meeting. The U.S. Supreme Court interpreted “non-curriculum related student group” as any student group that does not directly relate to the body of courses offered by the school. Board of Education of Westside Community School Dist. v. Mergens, 110 S.Ct. 2356 (1990).

3 High school districts should omit this paragraph.

For high school students, **4** selection of members or participants is at the discretion of the teachers, sponsors, or coaches, provided that the selection criteria conform to the District’s policies. Participation in co-curricular activities is dependent upon course selection and successful progress in those courses. In order to be eligible to participate in any school-sponsored or school-supported athletic or extracurricular activity, a student must maintain an overall ___ grade point average. **5** Any student-participant failing to meet these academic criteria shall be suspended from the activity for ___ calendar days or until the specified academic criteria are met, whichever is longer. **6**

LEGAL REF.: 105 ILCS 5/10-20.30 and 5/24-24.

CROSS REF.: 4:170 (Safety), [7:10 \(Equal Educational Opportunities\)](#), 7:40 (Nonpublic School Students, Including Parochial and Home-Schooled Students), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:300 (Extracurricular Athletics), 7:330 (Student Use of Buildings - Equal Access), 8:20 (Community Use of School Facilities)

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

4 Elementary districts should omit this paragraph.

5 Each board in a district that maintains any of grades 9-12 must have a *no pass-no play* policy (105 ILCS 5/10-20.30). The policy must specify a minimum grade point average (left blank in the sample policy) AND/OR a minimum grade in each course, such as *passing* (*see alternatives below*). The policy must provide a suspension period – stated in sample policy as “___ calendar days or until the specified academic criteria are met, whichever is longer.” The procedure for implementing this policy is an administrative, management function. Alternatives follow:

Alternative 1: ...a student must maintain an overall ___ grade point average and a passing grade [or minimum grade of ___] in each course the student is enrolled.

Alternative 2: ...a student must maintain a passing grade [or minimum grade of ___] in each course the student is enrolled.

Alternative 3: ...a student must satisfy the Illinois High School Association’s scholastic standing requirements [doing passing work in at least 20 credit hours of high school work per week].

6 Alternatives include:

Alternative 1: ...shall be suspended from the activity for ___ calendar days. [*omitting the rest of the sentence.*]

Alternative 2: ...shall be suspended from the activity until the specified academic criteria are met.

Instruction

Bring Your Own Technology (BYOT) Program; Responsible Use and Conduct 1

The Superintendent or designee shall establish a *Bring Your Own Technology (BYOT) Program*. The program will: 2

1. Promote educational excellence by facilitating resource sharing, innovation, and communication to enhance (a) technology use skills; (b) web-literacy and critical thinking skills about Internet resources and materials, including making wise choices; and (c) habits for responsible digital citizenship required in the 21st century. 3
2. Provide sufficient wireless infrastructure within budget parameters. 4
3. Provide access to the Internet only through the District's electronic networks. 5
4. Identify approved BYOT devices and what District-owned technology devices may be available; e.g., laptops, tablet devices, E-readers, and/or smartphones.
5. Align with Board policies 4:140, *Waiver of Student Fees*; 5:125 *Personal Technology and Social Media; Usage and Conduct*; 5:170, *Copyright*; 6:120, *Education of Children with Disabilities*; 6:235, *Access to Electronic Networks*; 7:140, *Search and Seizure*; 7:180,

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. It concerns an area in which the law is unsettled. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. Consult the board attorney and the district's information technology professional(s) for advice to create a legally sound program that fits your district's mission statement for instruction.

2 Customize paragraphs 1-8 to reflect the how the program will align with the board's mission statement for instruction and goals for its program.

3 105 ILCS 5/27-13.3 and 47 C.F.R. § 54.520(c)(1)(i) require Internet safety instruction. See f/n #14 in 6:60, *Curriculum Content* for more discussion.

4 District may want to consider a *guest network*, similar to what hotels and other service industry hosts provide to their customers. This can protect a district's network from malicious software, which is discussed in f/n #5 below.

5 Care must be taken to comply with the Children's Internet Protection Act (CIPA), 47 U.S.C. §254. CIPA requires the district to provide content filters, blocking lists, or district monitoring of Internet website traffic for patterns of usage that could indicate inappropriate network usage. While a program using district-owned technology devices is always subject to the district's electronic network rules, a BYOT program creates the possibility for students to bypass the district's electronic network and access the Internet through their own wireless providers' signals. This *bypass* complicates a district's duty under CIPA.

Consult the board attorney about managing CIPA compliance issues in the context of a BYOT program. This sample policy is conservative, and it requires that CIPA govern the use of any BYOT device's Internet access capability while the device is at school. If the board will allow a student to bypass the district's electronic network and access his or her wireless providers' signals, consult the board attorney.

Care must also be taken to reduce the electronic network's vulnerability to malicious viruses and malware. Malicious viruses and malware are increasingly being targeted to smartphone users. This is evidenced by the Federal Trade Commission's (FTC) recent filings of lawsuits around the country accusing companies of ordering or engineering the sending of hundreds of millions of spam text messages to mobile phone users. The district may want to require students to ensure their BYOT devices contain an anti-virus and/or anti-malware software product. While many of these software products are free, some are not. Requiring all BYOT devices to have this type of software presents equity issues between students because it may require parents/guardians to spend funds to participate (see the discussion in f/n #6 below).

Preventing Bullying, Intimidation, and Harassment; 7:190, *Student Discipline*; and 7:340, *Student Records*. **6**

6. Provide relevant staff members with BYOT professional development opportunities, including the provision of:
 - a. Classroom management information about issues associated with the program, e.g., technical support, responsible use, etc.;
 - b. A copy of or access to this policy and any building-specific rules for the program;
 - c. Additional training, if necessary, about 5:170, *Copyright*; and
 - d. Information concerning appropriate behavior of staff members as required by State law and policy 5:120, *Ethics and Conduct*. **8**
7. Provide a method to inform parents/guardians and students about this policy.

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6 A BYOT program must continue to follow established policies. Boards may use this alternative, “Align with established Board policies.”

Managing the following issues may require a consultation with the board attorney:

1. 4:140, *Waiver of Student Fees*, needs examination because most BYOT programs require parents/guardians to spend funds to participate. 105 ILCS 5/10-20.13 requires districts, at a minimum, to waive charges for textbooks and other fees for children whose families are unable to afford them. See also policy 6:210, *Instructional Materials*, stating that district 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.
2. Management issues concerning 5:125, *Personal Technology and Social Media; Usage and Conduct*, and 5:170, *Copyright* are discussed in f/n #s 7 & 8 below.
3. 6:120, *Education of Children with Disabilities*, requires consideration for students with disabilities when integrating any technology programs into the educational environment. As with district-provided devices (often referred to as *1:1 technology programs*), devices must be accessible to students with disabilities, including those who are blind, have low vision or have a disability that affects their ability to access print information. The use of mobile devices that do not allow a student with a disability to access the instructional materials would be a violation of the student’s right under the Individuals With Disabilities Education Act (IDEA).
4. 6:235, *Access to Electronic Networks*, is discussed in f/n #5 above.
5. 7:140, *Search and Seizure*, still applies in a BYOT program. The Fourth Amendment protects individuals from searches only when the person has a legitimate expectation of privacy. However, 105 ILCS 5/10-22.6(e) allows school officials to inspect the personal effects left by a student on property owned or controlled by the school, e.g., lockers, desks, and parking lots. Many cases suggest that to search a student’s possessions left in the locker, school officials need individualized suspicion of wrongdoing. Many of the issues re: the search of electronic devices that are discussed in 7:190-AP6, *Guidelines for Investigating Sexting Allegations*, will apply to investigations involving BYOT devices. To minimize mediating with law enforcement for parents/guardians about confiscated devices, districts should distinguish whether they are acting upon their own initiative or need to contact law enforcement. See f/ns in policy 7:140, *Search and Seizure*, and the policy’s **Seizure of Property** subhead.
6. 7:180, *Preventing Bullying, Intimidation, and Harassment*, and 7:190, *Student Discipline*, present similar issues to # 3 & 4 above. Students must be aware that traditional expectations for appropriate behavior, and the consequences for inappropriate behavior, apply to a BYOT program.
7. See 7:340, *Student Records*. The law is not clear whether materials created by students participating in a BYOT program through a district’s network access are *school student records*.

7 See f/n # 1 above re: collective bargaining. Moving forward without properly training educators to manage BYOT issues may create pedagogical problems. One option for this training is to incorporate it into the training required during the in-service on educator ethics, teacher-student conduct, and school employee-student conduct required by board policy 5:120, *Ethics and Conduct*. Many issues involved in BYOT programs intersect with maintenance of appropriate behavior and policy 5:125, *Personal Technology and Social Media; Usage and Conduct*.

8 23 Ill.Admin.Code §22.20 and 105 ILCS 5/21-23, amended by P.A. 97-8, repealed, added and renumbered at 105 ILCS 5/21B-75 by P.A. 97-607.

8. Include the program in the annual report to the Board as required under policy 6:10, *Education Philosophy and Objectives*.

The District reserves the right to discontinue its BYOT program at any time. The District does not provide liability protection for BYOT devices, and it is not responsible for any damages to them.

Responsible Use ⁹

The District recognizes students participating in the program as responsible young adults and holds high expectations of their conduct in connection with their participation in the program. Teachers may encourage students to bring their own devices as supplemental in-class materials when: (a) using the devices will appropriately enhance, or otherwise illustrate, the subjects being taught; (b) the Building Principal has approved their use and found that their use is age-appropriate; and (c) the student's parent/guardian has signed the *Bring Your Own Technology (BYOT) Program Participation Authorization and Responsible Use Agreement Form*. A student's right to privacy in his or her device is limited; any reasonable suspicion of activities that violate law or Board policies will be treated according to policy 7:140, *Search and Seizure*.

Responsible use in the program incorporates into this policy the individual's *Acceptable Use of Electronic Networks* agreement pursuant to policy 6:235, *Access to Electronic Networks*. Responsible use also incorporates the established usage and conduct rules in policy 5:125, *Social Media and Personal Technology; Usage and Conduct* for staff and 7:190, *Student Discipline* for students. Failure to follow these rules and the specific BYOT program student guidelines may result in: (a) the loss of access to the District's electronic network and/or student's BYOT privileges; (b) disciplinary action pursuant to 7:190 *Student Discipline*, 7:200, *Suspension Procedures*, or 7:210, *Expulsion Procedures*; and/or (c) appropriate legal action, including referrals of suspected or alleged criminal acts to appropriate law enforcement agencies.

LEGAL REF.: Children's Internet Protection Act (CIPA), 47 U.S.C. §254(h) and (l).
Enhancing Education Through Technology Act, 20 U.S.C §6751 et seq.
47 C.F.R. Part 54, Subpart F, Universal Service Support for Schools and Libraries.
Children's Online Privacy Protection Act (COPPA), 15 U.S.C. §§6501-6508.
16 C.F.R. Part 312, Children's Online Privacy Protection Rule.
105 ILCS 5/28.

CROSS REF.: 1:30 (School District Philosophy), 4:140 (Waiver of Student Fees), 5:120 (Ethics and Conduct), 5:125 (Personal Technology and Social Media; Usage and Conduct), 5:170 (Copyright), 6:120 (Education of Children with Disabilities), 7:140 (Search and Seizure), 7:180 (Preventing Bullying, Intimidation, and Harassment), 6:10 (Educational Philosophy and Objectives), 6:40 (Curriculum Development), 6:210 (Instructional Materials), 6:235 (Access to Electronic Networks), 7:190 (Student Discipline)

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

⁹ This section provides general guidelines. A BYOT program will require a parent/guardian authorization to participate in it and specific guidelines for students. See 6:220-E1, *Authorization to Participate in Bring Your Own Technology (BYOT) Program; Responsible Use and Conduct*; 6:220-E2, *Bring Your Own Technology (BYOT) Program Student Guidelines*; and 6:235-E5, *Children's Online Privacy Protection Act*. See f/n #s 7 & 8 above re: teachers' guidelines. Application of additional guidelines for teachers may have collective bargaining implications (see f/n #1).

Instruction

Field Trips 1

Field trips are permissible when the experiences are a part of the school curriculum and/or contribute to the District’s educational objectives. 2

All field trips must have the Superintendent or designee’s prior approval, except that field trips beyond a 200-mile radius of the school or extending overnight must have the prior approval of the School Board. 3 The Superintendent or designee shall analyze the following factors to determine whether to approve a field trip: 4 educational value, student safety, parent concerns, heightened security alerts, and liability concerns. On all field trips, a bus fee set by the Superintendent or designee may be charged to help defray the transportation costs. 5

Parents/guardians of students: (1) shall be given the opportunity to consent to their child’s participation in any field trip, and (2) are responsible for all entrance fees, food, lodging, or other costs, except that the District will pay such costs for students who qualify for free or reduced school lunches. All non-participating students shall be provided an alternative experience. Any field trip may be cancelled without notice due to an unforeseen event or condition.

Privately arranged trips, including those led by District staff members, shall not be represented as or construed to be sponsored by the District or school. The District does not provide liability protection for privately arranged trips and is not responsible for any damages arising from them. 6

LEGAL REF.: 105 ILCS 5/29-3.1.

CROSS REF.: 6:10 (Educational Philosophy and Objectives), 7:270 (Administering Medicines to Students)

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

1 This is an optional policy. The following is an optional section for including class trips; add to the bottom of the policy and add “and Recreational Class Trips” to the policy’s title.

Recreational Class Trips

Recreational class trips are permissible provided they do not interfere with the District’s educational program. The provisions in this policy concerning field trips, except those regarding educational value, are also applicable to recreational class trips.

2 As an alternative, substitute the verb “encouraged” for “permissible.” State law also permits educational tours as a course supplement but does not authorize the use of school funds for such tours (105 ILCS 5/10-22.29b).

3 According to 105 ILCS 5/29-3.1, “[t]he school board may provide transportation for pupils on bona fide field trips in Illinois or adjacent states.” The superintendent or designee is delegated the responsibility to approve field trips after considering the factors in the policy.

105 ILCS 5/29-6.3 allows districts to transport students in vans for school sponsored activities “provided that the van is operated by or for the district under a rental or for hire arrangement entered into by the district.”

4 These are at the local board’s discretion.

5 Transportation fees are permitted by 105 ILCS 5/29-3.1.

6 This paragraph is optional. It seeks to distinguish privately arranged trips from those that are controlled and sponsored by the district and provides a disclaimer.

Students

Student Discipline ¹

Prohibited Student Conduct ²

The school administration is authorized to discipline students for gross disobedience or misconduct, including but not limited to:

1. Using, possessing, distributing, purchasing, or selling tobacco materials. ³
2. Using, possessing, distributing, purchasing, or selling alcoholic beverages. ⁴ Students who are under the influence of an alcoholic beverage are not permitted to attend school or school functions and are treated as though they had alcohol in their possession.
3. Using, possessing, distributing, purchasing, or selling:
 - a. Any illegal drug, controlled substance, or cannabis (including marijuana and hashish). ⁵
 - b. Any anabolic steroid unless being administered in accordance with a physician's or licensed practitioner's prescription. ⁶
 - c. Any performance-enhancing substance on the Illinois High School Association's most current banned substance list unless administered in accordance with a physician's or licensed practitioner's prescription. ⁷

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¹ All districts must have a policy on student discipline, including corporal punishment (105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280). Teachers and other certificated employees must maintain discipline (105 ILCS 5/24-24). Staff members may *not* use isolated time out or physical restraint unless authorized to do so by an administrative procedure or policy (105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §1.280(c) and 1.285). See f/n 35 and 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*. Given the unique concerns facing school officials, school disciplinary codes are not required to be drafted as narrowly or with the same precisions as criminal statutes. Bethel School Dist. v. Fraser, 106 S.Ct. 3159 (1986).

² Boards for elementary districts may customize the items listed as *prohibited student conduct* that clearly will not apply to their students.

³ 105 ILCS 5/10-20.5b prohibits use of tobacco on school property. Federal law prohibits smoking within schools by anyone (Pro-Children Act of 1994, 20 U.S.C. §6081). Districts that fail to comply risk a civil penalty of up to \$1,000 per violation per day. See policy 8:30, *Visitors to and Conduct on School Property*, for more information.

State and federal law have not yet addressed electronic cigarettes. An electronic or e-cigarette resembles a regular cigarette. It contains a battery-operated heating element that turns a liquid into a mist for inhaling. The liquid may contain nicotine. Information, albeit limited, is posted on the U.S. Food and Drug Administration website at:

www.fda.gov/tobaccoproducts/default.htm, and

www.fda.gov/newsevents/publichealthfocus/ucm252360.htm.

Boards may use the following alternative to prohibit electronic cigarettes: "Using, possessing, distributing, purchasing, or selling tobacco materials or electronic cigarettes."

⁴ Alcoholic beverages are defined in 235 ILCS 5/1-3.01 to 3.05.

⁵ Controlled substance is defined in 720 ILCS 570/102; cannabis is defined in 720 ILCS 550/3. Either spelling, "marihuana" or "marijuana," is correct; however, "marijuana" is more common.

⁶ Anabolic steroid is defined in 720 ILCS 570/102.

⁷ 105 ILCS 25/2 requires IHSA to prohibit a student from participating in an IHSA-sponsored athletic competition unless the student has agreed not to use any performance-enhancing substances on IHSA's current banned drug list and to submit to performance-enhancing substance testing. See policy 7:240, *Conduct Code for Participants in Extracurricular Activities*.

- d. Any prescription drug when not prescribed for the student by a physician or licensed practitioner, or when used in a manner inconsistent with the prescription or prescribing physician's or licensed practitioner's instructions.
- e. Any inhalant, regardless of whether it contains an illegal drug or controlled substance: (a) that a student believes is, or represents to be capable of, causing intoxication, hallucination, excitement, or dulling of the brain or nervous system; or (b) about which the student engaged in behavior that would lead a reasonable person to believe that the student intended the inhalant to cause intoxication, hallucination, excitement, or dulling of the brain or nervous system. The prohibition in this section does not apply to a student's use of asthma or other legally prescribed inhalant medications.
- f. "Look-alike" or counterfeit drugs, including a substance not containing an illegal drug or controlled substance, but one: (a) that a student believes to be, or represents to be, an illegal drug or controlled substance; or (b) about which a student engaged in behavior that would lead a reasonable person to believe that the student expressly or impliedly represented to be an illegal drug or controlled substance. **8**
- g. Drug paraphernalia, including devices that are or can be used to: (a) ingest, inhale, or inject cannabis or controlled substances into the body; and (b) grow, process, store, or conceal cannabis or controlled substances. **9**

Students who are under the influence of any prohibited substance are not permitted to attend school or school functions and are treated as though they had the prohibited substance, as applicable, in their possession.

- 4. Using, possessing, controlling, or transferring a "weapon" as that term is defined in the *Weapons* section of this policy, or violating the *Weapons* section of this policy. **10**
- 5. Using or possessing an electronic paging device. Using a cellular telephone, video recording device, personal digital assistant (PDA), or other electronic device in any manner that disrupts the educational environment or violates the rights of others, including using the device to take photographs in locker rooms or bathrooms, cheat, or otherwise violate student conduct rules. Prohibited conduct specifically includes, without limitation, creating, sending, sharing, viewing, receiving, or possessing an indecent visual depiction of oneself or another person through the use of a computer, electronic communication device, or cellular phone. Unless otherwise banned under this policy or by the Building Principal, all electronic devices must be kept powered-off and out-of-sight during the regular school day unless: (a) the supervising teacher grants permission; (b) use of the device is provided in a student's individualized education program (IEP); or (c) it is needed in an emergency that threatens the safety of students, staff, or other individuals. **11**

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

8 "Look-alike" and counterfeit substances are defined in 720 ILCS 570/102. "Look-alike" drugs should be defined; an unpublished Ill. Court of Appeals decision in 2000 found a board policy prohibiting possession of "look-alikes" to have vagueness problems.

9 Drug paraphernalia is defined in 720 ILCS 600/2.

10 This language is broader than the *Weapons* section of this policy. The *Weapons* section contains the statutorily required punishment for "a student who is determined to have brought" a weapon to school along with the statutory definition of *weapon* (105 ILCS 5/10-22.6). The language in item #4 is broader because it prohibits "using, possessing, controlling, or transferring" a weapon in addition to violating the *Weapons* section.

11 105 ILCS 5/10-21.10 prohibits student possession of electronic paging devices, but State law leaves to local boards the discretion whether to prohibit student possession of cellular phones (105 ILCS 5/10-20.28). Camera phones are now common and their misuse could seriously invade a student's privacy. A board wanting a sweeping prohibition may use the following alternative for item 5:

6. Using or possessing a laser pointer unless under a staff member's direct supervision and in the context of instruction.
7. Disobeying rules of student conduct or directives from staff members or school officials. Examples of disobeying staff directives include refusing a District staff member's request to stop, present school identification, or submit to a search.
8. Engaging in academic dishonesty, including cheating, intentionally plagiarizing, wrongfully giving or receiving help during an academic examination, and wrongfully obtaining test copies or scores.
9. Engaging in hazing or any kind of bullying or aggressive behavior that does physical or psychological harm to a staff person or another student, or urging other students to engage in such conduct. Prohibited conduct specifically includes, without limitation, any use of violence, intimidation, force, noise, coercion, threats, stalking, harassment, sexual harassment, public humiliation, theft or destruction of property, retaliation, hazing, bullying, bullying using a school computer or a school computer network, or other comparable conduct. **12**
10. Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person's personal property. **13**

Using or possessing a cellular telephone, electronic signaling device, two-way radio, video recording device, and/or other telecommunication device, unless authorized and approved by the Building Principal.

Operating transmitters designed to jam or block wireless communications violates the federal Communications Act of 1934 (47 U.S.C. §§301, 302a, and 333). Fines for a first offense can range as high as \$11,000 for each violation or imprisonment for up to one year, and the device may also be seized by the U.S. government. 47 U.S.C. §§501-510.

Making a video recording or live video transmission of another person without their consent in a restroom, locker room, or changing room is a felony (720 ILCS 5/26-4). A minor who distributes or disseminates an indecent visual depiction of another minor through the use of a computer or electronic communication device may be subject to adjudication as a minor in need of supervision (705 ILCS 405/3-40).

12 All districts must have a policy on bullying (105 ILCS 5/27-23.7(d). Policy 7:180, *Preventing Bullying, Intimidation, and Harassment*, contains the statutory definition of *bullying*.

105 ILCS 5/10-20.14 requires boards, in consultation with their parent-teacher advisory committees and other community-based organizations, to include provisions in their student discipline policy to address aggressive behavior, including bullying. Implementing procedures must include a method for informing parents/guardians when their child or ward engaged in aggressive behavior as well as early intervention procedures based upon available community and district resources. See 7:190-E, *Aggressive Behavior Reporting Letter and Form*.

A trial court's order enjoining a student's expulsion for committing aggressive behavior was overturned in Wilson ex rel. Geiger v. Hinsdale Elementary School Dist. 181, 810 N.E.2d 637 (Ill.App.2, 2004). The board expelled an 11-year-old student for bringing 2 CDs to school containing a song entitled, "Gonna Kill Mrs. Cox's Baby." Mrs. Cox was the student's pregnant science teacher. The student was expelled for the remainder of the school year for violating the district's policy prohibiting aggressive behavior. The Court of Appeals reversed the trial court's temporary restraining order (that had stopped the penalty's imposition until after a trial) finding that the student had violated school rules subjecting him to exclusion and that the penalty was not unreasonable, arbitrary, capricious, or oppressive.

See also Gendelman v. Glenbrook North High School and Northfield Township School District 225, 2003 WL 21209880 (N.D.Ill., 2003)(student suspensions for hazing were upheld).

A person commits a felony hate crime when, by reason of the actual or perceived race, color, creed, religion, ancestry, sexual orientation, disability, or national origin of another person, he or she commits assault or battery (720 ILCS 5/12-7.1). The penalty is heightened when the offense is committed in a school or administrative facility.

720 ILCS 5/26-1 makes transmitting a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

13 720 ILCS 5/26-1 makes threatening to destroy a school building or school property, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

11. Being absent without a recognized excuse; State law and School Board policy regarding truancy control will be used with chronic and habitual truants. **14**
12. Being involved with any public school fraternity, sorority, or secret society, by: (a) being a member; (b) promising to join; (c) pledging to become a member; or (d) soliciting any other person to join, promise to join, or be pledged to become a member. **15**
13. Being involved in gangs or gang-related activities, including displaying gang symbols or paraphernalia. **16**
14. Violating any criminal law, including but not limited to, assault, battery, arson, theft, gambling, eavesdropping, and hazing.
15. Making an explicit threat on an Internet website against a school employee, a student, or any school-related personnel if the Internet website through which the threat was made is a site that was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made, and the threat could be reasonably interpreted as threatening to the safety and security of the threatened individual because of his or her duties or employment status or status as a student inside the school. **17**
16. Engaging in any activity, on or off campus, that interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. **18**

For purposes of this policy, the term “possession” includes having control, custody, or care, currently or in the past, of an object or substance, including situations in which the item is: (a) on the student’s person; (b) contained in another item belonging to, or under the control of, the student, such as in the student’s clothing, backpack, or automobile; (c) in a school’s student locker, desk, or other school property; or (d) at any location on school property or at a school-sponsored event. **19**

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14 105 ILCS 5/26-2a, 5/26-9, and 5/26-12. See policy 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*, and 7:70, *Attendance and Truancy*.

15 State law requires schools to suspend or expel any student who engages in this activity (105 ILCS 5/31-3).

16 See *Kelly v. Board of Educ. of McHenry Community High School Dist.* 156, 2007 WL 114300 (N.D.Ill., 2007)(upheld student’s expulsion for drawing gang symbols while at school; testimony that the danger posed by gang signs and the presence of gangs at school supported the board’s insistence on strict enforcement of board policy prohibiting gang related behavior and made expulsion a proper remedy). Significantly, the General Assembly recognized in 105 ILCS 5/27-23.7(a), that “[g]iven the higher rates of criminal offending among gang members, as well as the availability of increasingly lethal weapons, the level of criminal activity by gang members has taken on new importance for law enforcement agencies, schools, the community, and prevention efforts.”

740 ILCS 147/15 *et seq.* allows a school district to bring a civil suit against a gang, gang officers, or gang members for losses it suffers due to their criminal activity.

17 This statement of misconduct restates 105 ILCS 5/10-22.6(d-5). The following alternative provides a shorter statement but will require the administrator to check the statute before imposing discipline based on it:

Making an explicit threat on an Internet website against a school, employee, or any school-related personnel under circumstances described in Section 10-22.6(d-5) of the School Code.

18 A catchall provision, e.g., this one, gives staff members authority to respond to unforeseen situations.

If the board adopts a mandatory uniform policy (see 7:165, *School Uniforms*), add the following item to the list as number 16: “Failing to comply with the mandatory uniform policy, but only after repeated attempts to secure compliance, such as conferences with parents/guardians, have been unsuccessful.”

19 “Possession” should be defined to avoid vagueness problems.

Efforts, including the use of early intervention and progressive discipline, shall be made to deter students, while at school or a school-related event, from engaging in aggressive behavior that may reasonably produce physical or psychological harm to someone else. The Superintendent or designee shall ensure that the parent/guardian of a student who engages in aggressive behavior is notified of the incident. ²⁰ The failure to provide such notification does not limit the Board's authority to impose discipline, including suspension or expulsion, for such behavior.

No disciplinary action shall be taken against any student that is based totally or in part on the refusal of the student's parent/guardian to administer or consent to the administration of psychotropic or psychostimulant medication to the student. ²¹

The grounds for disciplinary action, including those described more thoroughly later in this policy, apply whenever the student's conduct is reasonably related to school or school activities, including, but not limited to: ²²

1. On, or within sight of, school grounds before, during, or after school hours or at any time;
2. Off school grounds at a school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school;
3. Traveling to or from school or a school activity, function, or event; or

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²⁰ See f/n #12.

²¹ Mandated by 105 ILCS 5/10-20.36.

²² A school's power over students does not cease when students leave the campus. Illinois statutes provide little guidance concerning off-campus jurisdiction. Board policy must provide a jurisdictional statement telling students and staff the circumstances under which the district will take disciplinary action. Rules taking jurisdiction of off-campus misconduct generally survive the test of reasonableness if they are limited to situations having a direct nexus to the school. Jurisdictional rules in board policy should generally be as broad as possible in order to give staff members authority to respond to unforeseen situations. However, a countervailing interest concerns liability for off-campus student injuries, i.e., the greater the jurisdiction a district is willing to impose, the greater the scope of liability it may be assuming. Ultimately, a decision whether to discipline for off-campus misconduct requires a factual inquiry to determine the degree of nexus and impact on the school. Two decisions issued by the same federal court of appeals are informative. Both cases involved students who created a very unflattering MySpace profile parodying their principal but there was little evidence that the profiles caused, or could cause, substantial disruption in the schools. Absent this factor, the school districts were not empowered to punish out-of-school expressive conduct, even if it is lewd, indecent, or offensive speech. J.S. v. Blue Mountain Sch. Dist., combined with Layshock v. Hermitage Sch. Dist., 650 F.3d 205 (3d Cir. 2011), cert. denied 2012 WL 117558 (U.S.).

There are many other decisions on disciplining a student for off-campus misconduct; for examples, see: Morse v. Frederick, 127 S.Ct. 2618 (2007)(held school's compelling interest in stopping student drug abuse allows schools to prohibit student speech that maybe reasonably regarded as promoting illegal drug use); Boucher v. School Dist. of Greenfield, 134 F.3d 821 (7th Cir. 1998)(upheld expulsion for off-campus speech – an article explaining how to hack into the school's computers); Giles v. Brookville Area School District, 669 A.2d 1079 (Pa. Commw. 1995)(upheld expulsion for selling marijuana to another student off-campus where negotiations took place on campus); J.S. v. Bethlehem Area School District, 807 A.2d 847 (Pa. 2002)(suspension upheld for posting on a private web site derogatory, offensive, and threatening statements directed toward a teacher); Wisnieski v. Weedsport Cent. School District., 494 F.3d 34 (2nd Cir. 2007), (upheld suspension for off-campus speech - an instant message icon illustrating a pistol firing a bullet at teacher's head with words "kill Mr. Vandermolen."); Doe v. Pulaski Co. Special School, 306 F.3d 616 (8th Cir. 2002) (vacated holding in Doe v. Pulaski Co. Special School, 263 F.3d 833 (8th Cir. 2001), holding that the school board did not violate the student's First Amendment rights when it expelled him for writing a letter at home referring to killing his girlfriend).

Note that the law is different regarding participants in athletics and extracurricular activities. See policy 7:240, *Conduct Code for Participants in Extracurricular Activities*.

A judge may transfer a student to another school for committing stalking or non-consensual sexual contact against another student, or for aiding and abetting such an act; the parents/guardians are responsible for transportation and other costs associated with the transfer (Stalking No Contact Order Act and the Civil No Contact Order Act, 740 ILCS 21/80 and 22/213). The school district and will probably not be notified before a transfer order is issued. School officials should immediately seek the board attorney's advice concerning available options.

4. Anywhere, if the conduct interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including, but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. ²³

Disciplinary Measures ²⁴

Disciplinary measures may include: ²⁵

1. Disciplinary conference.
2. Withholding of privileges.
3. Seizure of contraband.
4. Suspension from school and all school activities for up to 10 days, provided that appropriate procedures are followed. ²⁶ A suspended student is prohibited from being on school grounds.
5. Suspension of bus riding privileges, provided that appropriate procedures are followed. ²⁷
6. Expulsion from school and all school-sponsored activities and events for a definite time period not to exceed 2 calendar years, provided that the appropriate procedures are followed. ²⁸ An expelled student is prohibited from being on school grounds. ²⁹

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

²³ Suspending or expelling a student for off-campus misconduct is problematic when the school's jurisdiction is premised on nothing more than "the student's presence at school may reasonably be considered to create an interference with school purposes or an educational function." If possible, other grounds for jurisdiction should be added. The factual context will determine jurisdiction. Even when there is no other jurisdictional ground, if the nature of the conduct is particularly troublesome, a detrimental impact on the school can be inferred. See Doe v. Superintendent of Schools of Stoughton, 767 N.E.2d 1054 (Mass., 2002)(suspension for off-campus commission of a felony was upheld).

²⁴ Aside from procedural due process protection, students have a constitutional substantive due process right. This right protects them from an abuse of government power which "shocks the conscience." While the scope of substantive due process is very limited, it is available to students who believe they were subject to arbitrary and excessive discipline. Generally, however, school officials need not fear being found guilty of a substantive due process violation. Federal courts are loath to second-guess school officials.

An example of the judicial reluctance to interfere is Tun v. Whitticker, 398 F.3d 899 (7th Cir., 2005). A student named Brandon brought a substantive due process claim against the school for expelling him without evidence of wrongdoing. Brandon and three others were expelled for allowing nude pictures of themselves to be taken in the school shower. After Brandon appealed using the school's procedures, the expulsion was rescinded and his record expunged of any reference to the incident. Brandon, however, brought a federal court action alleging that his substantive due process rights were violated. While the Court believed that school officials overacted to boys "just horsing around," it did not believe the expulsion amounted to a substantive due process violation - it fell short of the required "shocks the conscience" standard.

²⁵ Most school attorneys advise against using a grade reduction as a disciplinary measure. One case upheld the application of such a policy. Knight v. Board of Education, 348 N.E.2d 299 (Ill.App. 4, 1976). Another case, however, found unconstitutional, a grade reduction policy requiring 9-week grades to be reduced 4% for each day of a suspension. Smith v. School City of Hobart, 811 F.Supp. 391 (N.D.Ind., 1993).

²⁶ 105 ILCS 5/10-22.6. The next sentence is optional.

²⁷ Id.

²⁸ 105 ILCS 5/10-22.6. The Indiana Supreme Court upheld a policy to deny semester credit to a student expelled anytime during the semester. South Gibson School Board v. Sollman, 768 N.E.2d 437 (Ind. 2002). An optional provision, such as the following, should be discussed with the board attorney before adoption:

Unless the Building Principal determines otherwise, a student expelled anytime during a semester will be denied credit for the semester regardless of whether the student had completed sufficient course work to earn a passing grade before being expelled.

²⁹ Optional (105 ILCS 5/10-22.6).

7. Notifying juvenile authorities or other law enforcement whenever the conduct involves illegal drugs (controlled substances), “look-alikes,” alcohol, or weapons.
8. Notifying parents/guardians.
9. Temporary removal from the classroom.
10. In-school suspension for a period not to exceed 5 school days. The Building Principal or designee shall ensure that the student is properly supervised. **30**
11. After-school study or Saturday study **31** provided the student’s parent/guardian has been notified. If transportation arrangements cannot be agreed upon, an alternative disciplinary measure must be used. The student must be supervised by the detaining teacher or the Building Principal or designee.
12. Community service with local public and nonprofit agencies that enhances community efforts to meet human, educational, environmental, or public safety needs. **32** The District will not provide transportation. School administration shall use this option only as an alternative to another disciplinary measure giving the student and/or parent/guardian the choice.

A student ~~who is subject to a suspension in excess of 20 school days or an expulsion~~ may be immediately transferred to an alternative program ~~if the student is expelled or otherwise qualifies for the transfer under State law. The transfer shall be~~ in the manner provided in Article 13A or 13B of the School Code. **33**

Corporal punishment is prohibited. Corporal punishment is defined as slapping, paddling, or prolonged maintenance of students in physically painful positions, or intentional infliction of bodily harm. Corporal punishment does not include reasonable force as needed to maintain safety for students, staff, or other persons, or for the purpose of self-defense or defense of property. **34 35**

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

30 State law does not cover in-school suspensions. Generally, an educational program must be included in an in-school suspension; otherwise, it may become a regular suspension with procedural requirements.

31 Teachers may not be required to teach on Saturdays (105 ILCS 5/24-2).

32 Optional. See Herndon v. Chapel Hill-Carrboro City Bd., 89 F.3d 174 (C.A. 4, 1996)(upheld policy requiring students to complete community service in order to graduate).

33 ~~This restates~~ 105 ILCS 5/10-22.6(a) and (b). ~~amended by P.A. 97-495. Subsection 10-22(b) uses the phrase “is suspended in excess of 20 school days” even though such a suspension should be treated as an expulsion.~~ Most school lawyers say that a suspension over 10 days is automatically an expulsion and must be treated as such as per Goss v. Lopez, 95 S.Ct. 729 (1975). ~~Subsection 10-22(b) used the phrase “is suspended in excess of 20 school days” even though such a suspension should be treated as an expulsion.~~ It is an open question whether an alternative program is available to a student who is suspended for 11 to 20 days because that student is technically expelled and, as such, qualifies under subsection (a) of Section 10-22.6 even though s/he would not qualify under subsection (b) of that statute. The alternative program may not deny the transfer on the basis of the suspension or expulsion, except in cases in which the transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

34 This paragraph paraphrases 105 ILCS 5/24-24.

35 School district staff may not use isolated time out or physical restraint unless the superintendent or board authorizes its use in a procedure or policy (105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §1.280(c) and 1.285). See 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*. An ISBE rule states that a district must have a *policy* on isolated time out and physical restraint in order to authorize their use. As the School Code does not contain such a requirement, ISBE has found that a district procedure will suffice to authorize the use of isolated time-out and restraint. A board may, but is not required to, include both or one of the following sentences:

School District staff members shall not use isolated time out and physical restraint other than as permitted in Section 10-20.33 of the School Code, State Board of Education rules, and procedures developed by the Superintendent. Neither isolated time out nor physical restraint shall be used in administering discipline to individual students, i.e., as a form of punishment.

Weapons 36

A student who is determined to have brought one of the following objects to school, any school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school shall be expelled for a period of at least one calendar year but not more than 2 calendar years:

1. A firearm, meaning any gun, rifle, shotgun, or weapon as defined by Section 921 of Title 18 of the United States Code (18 U.S.C. § 921), firearm as defined in Section 1.1 of the Firearm Owners Identification Card Act (430 ILCS 65/), or firearm as defined in Section 24-1 of the Criminal Code of 1961 (720 ILCS 5/24-1).
2. A knife, brass knuckles, or other knuckle weapon regardless of its composition, a billy club, or any other object if used or attempted to be used to cause bodily harm, including “look alike” of any firearm as defined above.

The expulsion requirement under either paragraph 1 or 2 above may be modified by the Superintendent, and the Superintendent’s determination may be modified by the Board on a case-by-case basis. The Superintendent or designee may grant an exception to this policy, upon the prior request of an adult supervisor, for students in theatre, cooking, ROTC, martial arts, and similar programs, whether or not school-sponsored, provided the item is not equipped, nor intended, to do bodily harm. 37

Required Notices

A school staff member shall immediately notify the office of the Building Principal in the event that he or she: (1) observes any person in possession of a firearm on or around school grounds; however, such action may be delayed if immediate notice would endanger students under his or her supervision, (2) observes or has reason to suspect that any person on school grounds is or was involved in a drug-related incident, or (3) observes a battery committed against any staff member. 38 Upon receiving such a report, the Building Principal or designee shall immediately notify the local

The first sentence in the above optional paragraph will require the superintendent to develop administrative procedures; the second sentence is from ISBE rule 23 Ill.Admin.Code §1.285.

36 This section restates 105 ILCS 5/10-22.6. See also the Gun-Free Schools Act, 20 U.S.C. §7151 et seq. This section contains the statutorily required punishment for bringing a weapon to school along with the statutory definition of *weapon* (105 ILCS 5/10-22.6). Item #4 in the **Prohibited Student Conduct** section is broader because it prohibits “using, possessing, controlling, or transferring” a weapon in addition to violating the *Weapons* section.

When preparing for a due process hearing, a principal needs to use the applicable State and federal law definitions of “firearm”– not just the School Code. Analyzing the student’s circumstances on a case-by-case basis may avoid a judicial finding that an expulsion is too severe. See Washington v. Smith, 618 N.E.2d 561 (Ill.App., 1993).

37 Optional.

38 105 ILCS 5/10-27.1A, 5/10-27.1B, and 5/10-21.7. “School grounds” includes the real property comprising any school, any conveyance used to transport students to school or a school-related activity, and any public way within 1,000 feet of any school ground. To satisfy the reporting requirement, ISBE created the School Incident Reporting System (SIRS), a web-based application on IWAS for schools to report incidents electronically. Reporting on SIRS does not satisfy the requirement to report incidents to local law enforcement authorities.

law enforcement agency, State Police, and any involved student's parent/guardian. ³⁹ "School grounds" includes modes of transportation to school activities and any public way within 1000 feet of the school, as well as school property itself.

Delegation of Authority

Each teacher, and any other school personnel when students are under his or her charge, is authorized to impose any disciplinary measure, other than suspension, expulsion, corporal punishment, or in-school suspension, that is appropriate and in accordance with the policies and rules on student discipline. Teachers, other certificated educational employees, and other persons providing a related service for or with respect to a student, may use reasonable force as needed to maintain safety for other students, school personnel, or other persons, or for the purpose of self-defense or defense of property. ⁴⁰ Teachers may temporarily remove students from a classroom for disruptive behavior. ⁴¹

The Superintendent, Building Principal, Assistant Building Principal, or Dean of Students is authorized to impose the same disciplinary measures as teachers and may suspend students guilty of gross disobedience or misconduct from school (including all school functions) and from riding the school bus, up to 10 consecutive school days, provided the appropriate procedures are followed. ⁴² The Board may suspend a student from riding the bus in excess of 10 school days for safety reasons. ⁴³

Student Handbook

The Superintendent, with input from the parent-teacher advisory committee, ⁴⁴ shall prepare disciplinary rules implementing the District's disciplinary policies. These disciplinary rules shall be presented annually to the Board for its review and approval.

A student handbook, including the District disciplinary policies and rules, shall be distributed to the students' parents/guardians within 15 days of the beginning of the school year or a student's enrollment.

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³⁹ *Id.* State law imposes this duty to report firearm possession only on school officials; this duty may be also imposed on volunteers and community members. Only staff members, however, are vulnerable to committing a petty offense for their failure to report, and only staff members are protected from civil or criminal liability that might arise as a result of making a report (although the liability potential for anyone making a report is remote).

The building principal must notify the student's parents/guardians only when the alleged offense is firearm possession. The policy expands this notification duty; a board disinclined to do this should substitute the following sentence:

Upon receiving such a report, the Building Principal or designee shall immediately notify the applicable local law enforcement agency, State Police, and, if a student is reportedly in possession of a firearm, also the student's parents/guardians.

⁴⁰ Required by 105 ILCS 5/24-24 and 23 Ill.Admin.Code §1.280.

⁴¹ *Id.*

⁴² Required by 105 ILCS 5/10-22.6.

⁴³ *Id.*

⁴⁴ The board must establish and maintain a parent-teacher advisory committee to develop guidelines on student discipline. See policy 2:150, *Committees*. This policy's dissemination requirements are from 105 ILCS 5/10-20.14.

A comprehensive student handbook can provide notice of the school's conduct rules, extracurricular and athletic participation requirements, and other important information. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board.

LEGAL REF.: Gun-Free Schools Act, 20 U.S.C. §7151 et seq.
Pro-Children Act of 1994, 20 U.S.C. §6081.
105 ILCS 5/10-20.5b, 5/10-20.14, 5/10-20.28, 5/10-20.36, 5/10-21.7, 5/10-21.10,
5/10-22.6, 5/10-27.1A, 5/10-27.1B, 5/24-24, 5/26-12, 5/27-23.7, and 5/31-3.
23 Ill.Admin.Code §1.280.

CROSS REF.: 2:240 (Board Policy Development), 5:230 (Maintaining Student Discipline),
6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out
of School and Graduation Incentives Program), 7:70 (Attendance and Truancy),
7:130 (Student Rights and Responsibilities), 7:140 (Search and Seizure), 7:150
(Agency and Police Interviews), 7:160 (Student Appearance), 7:170
(Vandalism), 7:180 (Preventing Bullying, Intimidation, and Harassment), 7:200
(Suspension Procedures), 7:210 (Expulsion Procedures), 7:220 (Bus Conduct),
7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for
Participants in Extracurricular Activities), 7:270 (Administering Medicines to
Students), 7:310 (Restrictions on Publications), 8:30 (Visitors to and Conduct on
School Property)

Students

Student Athlete Concussions and Head Injuries 1

The Superintendent or designee shall develop and implement a program to manage concussions and head injuries suffered by student athletes. ² The program shall:

1. Comply with the concussion protocols, policies, and by-laws of the Illinois High School Association, including its *Protocol for NFHS Concussion Playing Rules* and its *Return to Play Policy*. ³ These specifically require that:
 - a. A student athlete who exhibits signs, symptoms, or behaviors consistent with a concussion in a practice or game shall be removed from participation or competition at that time.
 - b. A student athlete who has been removed from an interscholastic contest for a possible concussion or head injury may not return to that contest unless cleared to do so by a physician licensed to practice medicine in all its branches in Illinois or a certified athletic trainer.
 - c. If not cleared to return to that contest, a student athlete may not return to play or practice until the student athlete has provided his or her school with written clearance from a physician licensed to practice medicine in all its branches in Illinois or a certified athletic trainer working in conjunction with a physician licensed to practice medicine in all its branches in Illinois.
2. Inform student athletes and their parents/guardians about this policy in the *Agreement to Participate* or other written instrument that a student athlete and his or her parent/guardian

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¹ Each school board must adopt a policy regarding student athlete concussions and head injuries that is in compliance with the protocols, policies, and by-laws of the Illinois High School Association (IHSA) (105 ILCS 5/10-20.53, added 54, re-numbered by P.A. 97-204 813). This requirement applies to elementary school districts even if they have no student athletes. [See the Illinois Elementary School Association's concussion protocol at www.iesa.org/activities/concussion.asp.](http://www.iesa.org/activities/concussion.asp)

The Center for Disease Control and Prevention explains that a concussion is a type of traumatic brain injury caused by a bump, blow, or jolt to the head that alters the way the brain normally functions. See www.cdc.gov/concussion/. The CDC website contains excellent resources for the recognition, response, and prevention of concussions, including the opportunity to order or download free educational materials on concussions that can be distributed to parents, students, and coaches.

² The IHSA's by-laws define a *student-athlete* as "[a] student who has participated in one or more practices and/or athletic contests in any sport offered by or under the auspices of a high school." See www.ihsa.org/AbouttheIHSA/ConstitutionBylawsPolicies.aspx.

A school board for a high school or unit district may want to add the definition as follows: "A *student athlete* is a student who has participated in one or more practices and/or athletic contests in any sport offered by or under the auspices of a high school."

A sample program is provided in 7:305-AP, *Administrative Procedure - Program for Managing Student Athlete Concussions and Head Injuries*.

³ The *Protocol for NFHS Concussion Playing Rules* contains concussion information and provides instructions when a student athlete sustains an apparent concussion. The *Return to Play Policy* addresses the requirements for returning a student athlete to play after he or she exhibits signs, symptoms, or behaviors of a concussion. Available at:

www.ihsa.org/Resources/SportsMedicine/ConcussionManagement/SchoolResources.aspx.

must sign before the student is allowed to participate in a practice or interscholastic competition. ⁴

3. Provide coaches and student athletes and their parents/guardians with educational materials from the Illinois High School Association regarding the nature and risk of concussions and head injuries, including the risks inherent in continuing to play after a concussion or head injury. ⁵
4. Include a requirement for staff members to notify the parent/guardian of a student who exhibits symptoms consistent with that of a concussion. ⁶

LEGAL REF.: 105 ILCS 5/10-20.~~53~~ 54.

CROSS REF.: 4:170 (Safety), 7:300 (Extracurricular Athletics)

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⁴ School districts must include information about concussions in the student athlete agreement, contract, code, or written instrument that a student athlete and his or her parent/guardian are required to sign before participating in a practice or interscholastic competition. IHSA drafted a sample *Concussion Information Sheet*, also known as *Sign off (DOC)*. It has been incorporated into 7:300-E1, *Agreement to Participate*. It can be used to inform student athletes and parents, and it is available at: www.ihsa.org/Resources/SportsMedicine/ConcussionManagement/ParentGuardianResources.aspx.

A student athlete and his/her parent/guardian must sign an acknowledgment of having received the district's concussion policy. An ISBE rule defines *health-related information* to include a concussion policy acknowledgment. The acknowledgment, therefore, must be kept with the student's school student records as a temporary record (23 Ill.Admin.Code §375.10, adoption pending as of 3-12-2013).

⁵ IHSA has produced educational materials on concussions for coaches, parents/guardians, student athletes, and the school and health care providers on concussions that are available at: www.ihsa.org/Resources/SportsMedicine/ConcussionManagement.aspx.

⁶ This provision is optional.

Community Relations

Community Use of School Facilities ¹

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

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

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

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

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

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

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

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

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

² However, at the request of election officers, any publicly owned building must be made available for use as a polling place (10 ILCS 5/19-2.2). Election officers must place markers 100 horizontal feet from a polling room's voter entrance and, if the 100 feet ends within the building's interior, the markers must be placed outside of the building at each entrance used by voters. The area within where the markers are placed is a campaign free zone where electioneering is prohibited. The area on polling place property beyond the campaign free zone is a public forum for the time that the polls are open on an election day and may be used for campaigning and to place temporary signs (*Id.*). A child sex offender is permitted to vote early or by absentee ballot when his or her polling place is a school (10 ILCS 5/11-4.1).

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

Student groups, ~~and~~ school-related organizations, ~~and local governments~~ government agencies, and non-profit organizations are granted the use of school facilities at no ~~cost~~ costs during regularly staffed hours. ~~4 Fees and costs shall apply during non-regularly staffed hours and to other organizations granted use of facilities shall pay fees and costs. The~~ at any time. ~~5 A fee schedule and other terms of use shall be prepared by the Superintendent shall develop procedures to manage community use of school facilities. Use of school facilities requires the Superintendent's approval and is~~ and be subject to ~~the procedures.~~ annual approval by the School Board.

LEGAL REF.: 20 U.S.C. §7905.
10 ILCS 5/19-2.2.
105 ILCS 5/10-20.40, 5/10-22.10, and 5/29-3.5.
Good News Club v. Milford Central School, 121 S.Ct. 2093 (2001).
Lamb's Chapel v. Center Moriches Union Free School District, 113 S.Ct. 2141 (1993).
Rosenberger v. Rector and Visitors of Univ. of Va., 515 U.S. 819 (1995).

CROSS REF.: 7:330 (Student Use of Building - Equal Access), 8:25 (Advertising and Distributing Materials in Schools Provided by Non-School Related Entities), 8:30 (Visitors to and Conduct on School Property)

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

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

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

Community Relations

Advertising and Distributing Materials in Schools Provided by Non-School Related Entities ¹

No material or literature shall be posted or distributed that would: (1) disrupt the educational process, (2) violate the rights or invade the privacy of others, (3) infringe on a trademark or copyright, or (4) be defamatory, obscene, vulgar, or indecent. No material, literature, or advertisement shall be posted or distributed without advance approval as described in this policy.

Community, Educational, Charitable, or Recreational Organizations

Community, educational, charitable, recreational, or similar groups may, under procedures established by the Superintendent, advertise events pertinent to students' interests or involvement. ~~2 This may include displaying posters in areas reserved for community posters, having flyers distributed to students, or being included in the school's or District's website where appropriate.~~ All material and literature advertisements must (1) be student-oriented, and have (2) prominently display the sponsoring organization's name, prominently and (3) be approved in advance by the Superintendent or designee. The District reserves the right to decide where and when any advertisement or flyer is distributed, displayed, or posted. ³

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

¹ State or federal law controls this policy's content but the area of law is unsettled. Schools are *nonpublic forums*, meaning they need not open their doors to private speakers but may not discriminate against disfavored viewpoints or subjects, e.g., religion. Id., Lamb's Chapel v. Center Moriches Union Free School Dist., 113 S.Ct. 2141 (1993). This policy establishes a limited public forum, i.e., non-school entities may only distribute material concerning events pertinent to students' interests or involvement. Alternatively, boards may refuse to allow the distribution or posting of any material requested by non-school related organizations. Hedges v. Wauconda Community Unit School District No. 18, 9 F.3d 1295 (7th Cir. 1993); Muller v. Jefferson Lighthouse School, 98 F.3d 1530 (7th Cir. 1996). The following language can be used to completely ban the distribution of material by non-school related organizations:

No material or literature shall be posted in schools or distributed to students by non-school related organizations or individuals.

² This sentence establishes a limited public forum, i.e., the school limits non-school expressive activity to "events pertinent to students' interests or involvement." Such a limitation survives First Amendment scrutiny if it is reasonable and not based on the speaker's viewpoint. A school's refusal to post an individual's sign containing the Ten Commandments on the baseball field's fence open to commercial advertising did not violate the individual's free speech rights because the fence was open for a limited purpose (i.e., commercial ads) and the school's content restrictions were reasonable. DiLoreto v. Downey Unified School Dist., 196 F.3d 958 (9th Cir. 1999).

³ The distribution of flyers from religious youth organizations will survive scrutiny under the First Amendment's Establishment Clause if the organization's religious message is sufficiently separated from the school to prevent students from confusing the two. Sherman v. CCSD 21, 8 F.3d 1160 (7th Cir. 1993); Rusk v. Crestview Local Schools, 379 F.3d 418 (6th Cir. 2004). However, a policy allowing viewpoint discrimination will be set aside. Hills v. Scottsdale Unified School Dist., 329 F.3d 1044 (9th Cir. 2003)(refusal to distribute summer camp brochures offering Bible classes because of their religious content violated the First Amendment); Child Evangelism Fellowship of NJ v. Stafford Twsp. School Dist., 386 F.3d 514 (3rd Cir. 2004)(struck a policy prohibiting classroom distribution of religious fliers because it discriminated on basis of viewpoint); Child Evangelism Fellowship v. Montgomery Co. Public Schools, 457 F.3d 376 (4th Cir. 2006)(policy limiting classroom distribution of materials from outside groups based on type of group, rather than content of the materials, violates religious group's free speech rights, because it inadequately protects against viewpoint discrimination, i.e., it gave school officials "unfettered discretion" to engage in viewpoint discrimination).

Limitations that are not based on the material's viewpoint are permissible. Victory Through Jesus Sports Ministry v. Lee's Summit R-7 Sch. Dist., 640 F.3d 329 (8th Cir. 2011), *cert. denied*, 132 S.Ct. 592 (2011)(policy limiting the volume of promotional materials sent home with elementary students did not violate the First Amendment rights of a nonprofit Ministry Foundation).

Commercial Companies and Political Candidates or Parties 4

Commercial companies may purchase space for their advertisements in or on: (1) athletic field fences; (2) athletic, theater, or music programs; (3) student newspapers or yearbooks; (4) scoreboards; or (45) other appropriate ~~location~~ locations. The advertisements must be consistent with this policy and its implementing procedures and ~~must be approved by the School Board. No Board be appropriate for display in a school context. Prior approval from the Board is needed for advertisements on athletic fields, scoreboards, or other building locations. Prior approval is needed from the Superintendent or designee for advertisements on athletic, theater, or music programs; student newspapers and yearbooks; and any~~ commercial material related to graduation, class pictures, or class rings.

No individual or entity may advertise or promote its interests by using the names or pictures of the School District, any District school or facility, staff members, or students except as authorized by and consistent with administrative procedures and approved by the Board.

Material from candidates and political parties will not be accepted for posting or distribution, except when used as part of the curriculum.

LEGAL REF.: Berger v. Rensselaer Central School Corp., 982 F.2d 1160 (7th Cir. 1993), *cert. denied*, 113 S.Ct. 2344 (1993).
DiLoreto v. Downey Unified School Dist., 196 F.3d 958 (9th Cir. 1999).
Hedges v. Wauconda Community Unit School Dist., No. 118, 9 F.3d 5 (7th Cir. 1993).
Lamb's Chapel v. Center Moriches Union Free School Dist., 113 S.Ct. 2141 (1993).
Sherman v. Community Consolidated School Dist. 21, 8 F.3d 1160 (7th Cir. 1993), *cert. denied*, 114 S.Ct. 2109 (1994).
Victory Through Jesus Sports Ministry v. Lee's Summit R-7 Sch. Dist., 640 F.3d 329 (8th Cir. 2011), *cert. denied*, 132 S.Ct. 592 (2011).

CROSS REF.: 7:325 (Student Fund-Raising Activities), 7:330 (Student Use of Buildings - Equal Access)

Allowing Gideons to meet with students and distribute Bibles during instructional time violates the Establishment Clause. Berger v. Rensselaer Central School Corp., 982 F.2d 1160 (7th Cir. 1993); Doe v. South Iron R-1 School Dist., 498 F.3d 878 (8th Cir. 2007).

4 Commercial advertising may be accepted without making the school a forum for all types of expressive activity. See f/n #2 above. If the board does not want to sell advertising space, use the following alternative:

Commercial companies and political candidates or organizations are prohibited from advertising in schools, on the school grounds, or on school or District websites.

The list of places where commercial companies may purchase space for their advertisements must be tailored to meet local needs and circumstances.

The sample policy requires board approval only for ads that alter the look of school property. A board that wants to approve all commercial and political ads should use this alternative for the final two sentences:

Prior approval from the Board is needed for all commercial or political advertisements.

A board that wants to authorize the superintendent or designee to approve all commercial and political ads should use this alternative:

Prior approval from the Superintendent or designee is needed for all commercial or political advertisements.