

Students

Nonpublic School Students, Including Parochial and Home-Schooled Students 1

Part-Time Attendance

The District accepts nonpublic school students, including parochial and home-schooled students, who live within the District for part-time attendance in the District's regular education program on a space-available basis.² Requests for part-time attendance must be submitted to the Building Principal of the school in the school attendance area where the student resides. All requests for attendance in the following school year must be submitted before May 1.³

A student accepted for partial enrollment must comply with all discipline and attendance requirements established by the school. He or she may participate in any co-curricular activity associated with a District class in which he or she is enrolled. The parent(s)/guardian(s) of a student accepted for partial enrollment must pay all fees, pro-rated on the basis of a percentage of full-time fees. Transportation to and/or from school is provided on regular bus routes to or from a point on the route nearest or most easily accessible to the nonpublic school or student's home. This transportation shall be on the same basis as the District provides transportation for its full-time students.⁴ Transportation on other than established bus routes is the responsibility of the parent(s)/guardian(s).

Students with a Disability 5

The District accepts for part-time attendance those children for whom it has been determined that special education services are needed, are enrolled in nonpublic schools, and otherwise qualify for enrollment in the District. Requests must be submitted by the student's parent/guardian. Special educational services shall be provided to such students as soon as possible after identification, evaluation, and placement procedures provided by State law, but no later than the beginning of the next school semester following the completion of such procedures. Transportation for such students

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¹ State or federal law controls this policy's content. The compulsory attendance law requires that parents/guardians of a child between the ages of 7 and 17 years send their child to public school. 105 ILCS 5/26-1 *et seq.* An exception is provided for any child attending a private or parochial school "where children are taught the branches of education taught to children of corresponding age and grades in public schools, and where the instruction of the child in the branches of education is in the English language." *Id.* Home schooling is included in this exception if the teacher is competent, the required subjects are taught, and the student receives an education that is at least equivalent to public schooling. *People v. Levisen*, 404 Ill. 574 (1950).

² As of January 1, 1996, many of the duties imposed on school boards became powers. 105 ILCS 5/10-20. Thus, boards have the power to accept students enrolled in nonpublic schools for part-time attendance. 105 ILCS 5/10-20.24. A board should consult its attorney before deciding not to accept nonpublic students for part-time attendance.

³ *Id.* The deadline for submitting a request is at the local district's option. Consult the board attorney if the district or a school receives a request after this deadline.

⁴ Such transportation is required by 105 ILCS 5/29-4.

⁵ This paragraph restates State law. 105 ILCS 5/14-6.01. Federal law requires districts to develop and implement a system to locate, identify, and evaluate children with disabilities who attend private schools (including religiously affiliated schools and home-schools) located within the district. Moreover, the district must conduct child find activities for private school children with disabilities that are similar to those for children with disabilities in public schools. See 34 C.F.R. §§300.130-300.144 (children with disabilities enrolled by their parents in private schools). See Section 2, **Child Find**, in the IASB/III. Council of School Attorneys sample *Special Education Procedures Assuring the Implementation of Comprehensive Programming for Children with Disabilities*, at www.iasb.com/law/icsaspeded.cfm. Information from the U.S. Dept. of Education is at: www2.ed.gov/admins/lead/speced/privateschools/index.html?exp=3, including the publication *Provisions Related to Children with Disabilities Enrolled by their Parents in Private Schools*.

shall be provided only if required in the child's Individualized Educational Program on the basis of the child's disabling condition or as the special education program location may require.

Extracurricular Activities, Including Interscholastic Competition

A nonpublic school student is eligible to participate in: (1) interscholastic competition, provided his or her participation adheres to the regulations established by any association in which the School District maintains a membership, and (2) non-athletic extracurricular activities, provided the student attends a District school for at least one-half of the regular school day, excluding lunch.⁶ A nonpublic student who participates in an extracurricular activity is subject to all policies, regulations, and rules that are applicable to other participants in the activity.

Assignment When Enrolling Full-Time in a District School

Grade placement by, and academic credits earned at, a nonpublic school will be accepted if the school has a Certificate of Nonpublic School Recognition from the Illinois State Board of Education, or, if outside Illinois, if the school is accredited by the state agency governing education. ⁷

A student who, after receiving instruction in a non-recognized or non-accredited school, enrolls in the District will: (1) be assigned to a grade level according to academic proficiency, and/or (2) have academic credits recognized by the District if the student demonstrates appropriate academic proficiency to the school administration.⁸ Any portion of a student's transcript relating to such instruction will not be considered for placement on the honor roll or computation in class rank. ⁹

Notwithstanding the above, recognition of grade placement and academic credits awarded by a nonpublic school is at the sole discretion of the District. All school and class assignments will be made according to School Board policy 7:30, *Student Assignment and Intra-District Transfer*, as well as administrative procedures implementing this policy.

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⁶ State law is silent on this issue; however, the Ill. High School Association Bylaws, 3.011 and 4.011, state that in order to be eligible to participate in interscholastic competition a student must be enrolled in a district school and take a minimum of 25 credit hours of work for which the district will grant high school credit upon the student completing and passing the courses. If the board decides not to allow such participation, consider omitting this section of the policy and substituting:

Nonpublic school students, regardless of whether they attend a District school part-time, will not be allowed to participate in any extracurricular activities.

⁷ This paragraph is optional; districts are not required to accept the grade placement or academic credits from nonpublic schools. However, the Ill. State Board of Education (ISBE) provides a *recognition* status to nonpublic schools in order to, among other things, provide assurance that the school's educational program meets at least minimum State requirements. See 105 ILCS 5/2-3.25o; 23 Ill.Admin.Code Part 425, and ISBE's guidance at: www.isbe.net/Pages/Nonpublic-Elementary-and-Secondary-School-Registration-and-Recognition.aspx. Nonpublic schools may seek a *Certificate of Nonpublic School Recognition* by complying with these guidelines. While nonpublic school certification is entirely voluntarily, only nonpublic schools that have met the voluntary recognition requirements are eligible to receive school safety and education improvement block grant funding. See 23 Ill.Admin.Code §425.80.

⁸ The question whether to award academic credit based on proficiency is complex. If credit is not given, any incoming secondary student from a nongraded school begins high school as a freshman, regardless of age or proficiency. On the other hand, to award credit based on a student's proficiency only if the student is transferring from a nongraded school will seem unfair to other students. State law is silent on this issue and boards should consult their administrative team for guidance.

⁹ Optional.

LEGAL REF.: 105 ILCS 5/10-20.24 and 5/14-6.01.

CROSS REF.: 4:110 (Transportation), 6:170 (Title I Programs), 6:190 (Extracurricular and Co-Curricular Activities), 6:320 (High School Credit for Proficiency), 7:30 (Student Assignment and Intra-District Transfer), 7:300 (Extracurricular Athletics)

Students

Student Behavior 1

The goals and objectives of this policy are to provide effective discipline practices that: (1) ensure the safety and dignity of students and staff; (2) maintain a positive, weapons-free, and drug-free learning environment; (3) keep school property and the property of others secure; (4) address the causes of a student's misbehavior and provide opportunities for all individuals involved in an incident to participate in its resolution; and (5) teach students positive behavioral skills to become independent, self-disciplined citizens in the school community and society. ²

When and Where Conduct Rules Apply 3

A student is subject to disciplinary action for engaging in prohibited student conduct, as described in the section with that name below, whenever the student's conduct is reasonably related to school or school activities, including, but not limited to:

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¹ All districts must have a policy on student discipline, including school searches and bullying prevention (105 ILCS 5/10-20.14); re-engagement of students returning from an exclusionary discipline or an alternative school (105 ILCS 5/10-22.6(b-25)); and corporal punishment (105 ILCS 5/24-24). See also 23 Ill.Admin.Code §1.280. See the Cross References for policies on searches and bullying. Each district must furnish a copy of the discipline policy to parents/guardians within 15 days after the beginning of the school year, or within 15 days after starting classes for a student who transfers into the district. 105 ILCS 5/10-20.14(a). The school board must require that each school inform its pupils of the discipline policy's contents. *Id.*

School boards, along with the parent-teacher advisory committee, must annually review their pupil discipline policies, those policies' implementation, and any other factors related to the safety of their schools, students, and staff. *Id.* For more information about the parent-teacher advisory committee, see 2:150, *Committees*. The parent-teacher advisory committee, in cooperation with local law enforcement agencies, must develop, with the school board, a reciprocal reporting system. 105 ILCS 5/10-20.14(b). See 7:190-AP3, *Guidelines for Reciprocal Reporting of Criminal Offenses Committed by Students*. School districts are encouraged to create memoranda of understanding that define law enforcement's role in schools. See 7:190-E3, *Memorandum of Understanding*.

Given the unique concerns facing school officials, school disciplinary codes are not required to be drafted as narrowly or with the same precision as criminal statutes. *Bethel Sch. Dist. v. Fraser*, 478 U.S. 675 (1986).

² The goals and objectives in this policy give the board a focus for monitoring it. This list can be deleted, replaced, or modified by the board. Data on student discipline is available at: www.isbe.net/Pages/Expulsions-Suspensions-and-Truants-by-District.aspx.

³ Board policy should provide a jurisdictional statement telling students and staff the circumstances under which the district will take disciplinary action. Jurisdictional rules in board policy should generally be as broad as possible to give staff members authority to respond to unforeseen situations. Taking jurisdiction over off-campus misconduct generally survives the test of reasonableness when the misconduct has a direct nexus to the school. 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. Many decisions address disciplining a student for off-campus misconduct; for example, see: *J.S. v. Blue Mountain Sch. Dist.*, combined with *Layshock v. Hermitage Sch. Dist.*, 650 F.3d 205 (3d Cir. 2011), cert. denied 565 U.S. 1116 (2012)(absent evidence that parodies of school personnel caused, or could cause, substantial disruption, school districts may not punish out-of-school expressive conduct, even if it is lewd, indecent, or offensive speech).

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. A school district is seldom notified when a transfer order is requested. When notified, school officials should immediately seek the board attorney's advice concerning available options.

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
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. ⁴

Prohibited Student Conduct ⁵

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 or nicotine materials, including without limitation, electronic cigarettes. ⁶
2. Using, possessing, distributing, purchasing, or selling alcoholic beverages.⁷ 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, selling, or offering for sale:
 - a. Any illegal drug or controlled substance, or cannabis (including marijuana, hashish, and medical cannabis unless the student is authorized to be administered a medical cannabis infused product under *Ashley's Law*). ⁸

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⁴ The factual context will determine the appropriateness of taking jurisdiction. Contact the board attorney before disciplining a student for off-campus conduct. See *Doe v. Superintendent of Schs. of Stoughton*, 767 N.E.2d 1054 (Mass. 2002)(suspension for off-campus commission of a felony was upheld).

⁵ Consult the board attorney for advice on deleting or modifying any of the items in this section on prohibited student conduct.

⁶ 105 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 *et seq.* Districts that fail to comply risk a civil penalty of up to \$1,000 per violation per day. 20 U.S.C. §6083(f)(1). See 8:30, *Visitors to and Conduct on School Property*, for more information.

The U.S. Food and Drug Administration now regulates electronic cigarettes. 21 C.F.R. Parts 1100, 1140, and 1143, amended by 81 Fed.Reg. 28973. An electronic or e-cigarette resembles a regular cigarette and contains a battery-operated heating element that turns a liquid into a mist for inhaling. The liquid may contain nicotine. E-cigarettes are sometimes referred to as e-cigs, vapes, e-hookahs, vape pens, and electronic nicotine delivery systems (ENDS), and they are generally involved in *vaping*. Vaping is the act of inhaling and exhaling the aerosol, often referred to as vapor that is produced by an e-cigarette or similar device. An e-cigarette resembles a cigarette and contains a battery-operated heating element that turns a liquid into a mist for inhaling. Some e-cigarettes do not look like tobacco products and are shaped like other objects, such as USB flash drives, and are more easily concealed.

Information and resources are available at:

www.isbe.net/Pages/School-Health-Issues.aspx

www.fda.gov/tobaccoproducts/default.htm

www.cdc.gov/tobacco/basic_information/e-cigarettes/index.htm

www.dph.illinois.gov/topics-services/prevention-wellness/tobacco/e-cigarettes-and-vapes

www.drugabuse.gov/drugs-abuse/tobacconicotine-vaping

⁷ *Alcoholic beverages* are defined in 235 ILCS 5/1-3.01 to 3.05.

⁸ *Controlled substance* is defined in 720 ILCS 570/102(f); *cannabis* is defined in 720 ILCS 550/3(a) and in 410 ILCS 705/1-10, added by P.A. 101-27. Either spelling, *marihuana* or *marijuana*, is correct; however, *marijuana* is more common. See ¶n 11 for a discussion of medical cannabis and *Ashley's Law*.

- b. Any anabolic steroid unless it is being administered in accordance with a physician's or licensed practitioner's prescription. ⁹
- 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. ¹⁰
- 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. The use or possession of medical cannabis, even by a student for whom medical cannabis has been prescribed, is prohibited unless the student is authorized to be administered a medical cannabis infused product under *Ashley's Law*. ¹¹
- 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.

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⁹ *Anabolic steroid* is defined in 720 ILCS 570/102(c-1).

¹⁰ See policies 7:240, *Conduct Code for Participants in Extracurricular Activities*, and 7:300, *Extracurricular Athletics*.

¹¹ To legally use medical cannabis, an individual must first become a *registered qualifying patient*. The use of cannabis by a *registered qualifying patient* is permitted only in accordance with the Compassionate Use of Medical Cannabis Program. 410 ILCS 130/, amended by P.A.s 100-660 and 101-363, scheduled to be repealed on 7-1-20. There are many situations in which no one, even a *registered qualifying patient*, may possess or use cannabis. This includes in a school bus or on the grounds of any preschool, or primary or secondary school unless the student meets the requirements of 105 ILCS 5/22-33, a/k/a *Ashley's Law*. 410 ILCS 130/30(a)(2) and (3), amended by P.A.s 100-660 and 101-363, scheduled to be repealed on 7-1-20. *Ashley's Law* provides that school districts "shall authorize a parent or guardian or any other individual registered with the Department of Public Health as a designated caregiver of a student who is a registered qualifying patient to administer a medical cannabis infused product to the student on the premises of the child's school or on the child's school bus if both the student (as a registered qualifying patient) and the parent or guardian or other individual (as a registered designated caregiver) have been issued registry identification cards under the Compassionate Use of Medical Cannabis Program Act." 105 ILCS 5/22-33(b), added by P.A. 100-660 and amended by P.A. 101-363. Once the product is administered, the designated caregiver must remove the product from the school premises/bus. *Id.* 105 ILCS 5/22-33(b-5), added by 101-370, allows a properly trained school nurse or administrator to administer medical cannabis infused products to a student while at school, a school-sponsored activity, or before/after normal school activities, including while the student is in before-school or after-school care on school-operated property or while being transported on a school bus. The product may not be administered in a manner that would (in the school or district's opinion) create a disruption or expose other students to the product, and schools are not required to authorize use of the product if the school or district would lose federal funding as a result. 105 ILCS 5/22-33(c), added by P.A. 100-660. For more discussion, see f/n 25 in 7:270, *Administering Medicines to Students*. Contact the board attorney for advice concerning medical cannabis, including whether a federal or State law requires the district to accommodate a student who is a *registered qualifying patient*. See Americans with Disabilities Act of 1990, 42 U.S.C. §12101 *et seq.*; Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. §1400 *et seq.*; Rehabilitation Act of 1973, Section 504, 29 U.S.C. §794; 105 ILCS 5/14-1.01 *et seq.*, 5/14-7.02, and 5/14-7.02b; and 23 Ill.Admin.Code Part 226.

- f. Any substance inhaled, injected, smoked, consumed, or otherwise ingested or absorbed with the intention of causing a physiological or psychological change in the body, including without limitation, pure caffeine in tablet or powdered form. ¹²
 - g. *Look-alike* or counterfeit drugs, including a substance that is not prohibited by this policy, but one: (a) that a student believes to be, or represents to be, an illegal drug, controlled substance, or other substance that is prohibited by this policy; 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, controlled substance, or other substance that is prohibited by this policy. ¹³
 - h. 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. ¹⁴
 - i. 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. ¹⁵
 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

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¹² The Powdered Caffeine Control and Education Act states: “No person may sell, offer for sale, give away, or provide free samples of powdered pure caffeine to any person under age 18 located within the State or to any person under age 18 making the purchase from within the State.” A limited exception to this prohibition exists for “the sale of any powdered pure caffeine product that receives explicit approval as safe and effective for its intended use under the federal Food, Drug, and Cosmetic Act or is lawfully marketed under an over-the-counter monograph issued by the United States Food and Drug Administration.” 410 ILCS 647/20.

¹³ *Counterfeit* and *look-alike substances* are defined in 720 ILCS 570/102(g) and (y). This provision is broader because it would apply, for example, if a student represents a powdered vitamin to be pure caffeine – pure caffeine is prohibited on campus even though it is a legal substance. Look-alike drugs should be defined; an unpublished Ill. appellate decision in 2000 found a policy prohibiting possession of *look-alikes* had vagueness problems.

¹⁴ *Drug paraphernalia* is defined in 720 ILCS 600/2(d). Contact the board attorney for advice concerning a student who is a *registered qualifying patient*, as explained in f/n 11.

¹⁵ 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(d). The language in item #4 is broader because it prohibits “using, possessing, controlling, or transferring” a weapon in addition to violating the **Weapons** section. See the footnotes in the **Weapons** section for a discussion of the Firearm Concealed Carry Act’s provisions.

program (IEP); (c) it is used during the student's lunch period, or (d) it is needed in an emergency that threatens the safety of students, staff, or other individuals. ¹⁶

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, altering report cards, 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. ¹⁷

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¹⁶ 105 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. The misuse of camera phones can seriously invade a student's privacy. A board wanting a sweeping prohibition may use the following alternative for item #5:

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 are as high as \$10,000 for each violation and/or imprisonment, and the device may also be seized. 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 Class 4 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.

¹⁷ All districts must have a policy on bullying. 105 ILCS 5/27-23.7(d). Policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, contains the statutory definition of bullying. Districts must also have an age-appropriate policy on sexual harassment. 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-418,. See policy 7:20, *Harassment of Students Prohibited*, and its f/n 7 for further detail.

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. These provisions must include procedures for notifying a student's parents/guardians about his/her aggressive behavior and early intervention procedures based upon available community-based and district resources. See 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

Suspending students for hazing was upheld in Gendelman v. Glenbrook North High Sch. and Northfield Township Sch. Dist. 225, 2003 WL 21209880 (N.D.Ill. 2003). This decision may have been legislatively overturned by amending 105 ILCS 5/10-20.14.

The failure of a school official (including any administrator, teacher, counselor, support staff, or coach) to report hazing is a Class B misdemeanor. 720 ILCS 5/12C-50.1.

A person commits a felony hate crime when, by reason of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin of another individual or group of individuals, regardless of the existence of any other motivating factor or factors, he or she commits assault, battery, aggravated assault, intimidation, stalking, cyberstalking, misdemeanor theft, criminal trespass to residence, misdemeanor criminal damage to property, criminal trespass to vehicle, criminal trespass to real property, mob action, disorderly conduct, transmission of obscene message, harassment by telephone, or harassment through electronic communications as these crimes are defined in the Criminal Code. 720 ILCS 5/12-7.1, amended by P.A.s 100-197 and 100-260. The penalty is heightened when the offense is committed in a school or administrative facility.

10. Engaging in any sexual activity, including without limitation, offensive touching, sexual harassment, indecent exposure (including mooning), and sexual assault. This does not include the non-disruptive: (a) expression of gender or sexual orientation or preference, or (b) display of affection during non-instructional time.
11. Teen dating violence, as described in Board policy 7:185, *Teen Dating Violence Prohibited*. **18**
12. Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person's personal property. **19**
13. Entering school property or a school facility without proper authorization.
14. In the absence of a reasonable belief that an emergency exists, calling emergency responders (such as calling 911); signaling or setting off alarms or signals indicating the presence of an emergency; or indicating the presence of a bomb or explosive device on school grounds, school bus, or at any school activity.
15. Being absent without a recognized excuse; State law and School Board policy regarding truancy control will be used with chronic and habitual truants. **20**
16. 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. **21**
17. Being involved in gangs or gang-related activities, including displaying gang symbols or paraphernalia. **22**
18. Violating any criminal law, including but not limited to, assault, battery, arson, theft, gambling, eavesdropping, vandalism, and hazing.
19. 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

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720 ILCS 5/26-1(a)(3.5) and (b) make 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.

18 All school boards must have a policy on prohibited teen dating violence. 105 ILCS 110/3.10. Verify that the board adopted the policy listed and amend its title in this policy, if necessary.

19 720 ILCS 5/26-1(a)(3.5) and (b) make 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.

20 105 ILCS 5/26-2a, amended by P.A.s 100-918 and 100-810; 5/26-9; and 5/26-12, amended by P.A.s 100-810 and 101-81. 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*.

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

22 See *Kelly v. Bd. of Educ. of McHenry Community High Sch. 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).

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.

threatened individual because of his or her duties or employment status or status as a student inside the school. ²³

20. Operating an unmanned aircraft system (UAS) or drone for any purpose on school grounds or at any school event unless granted permission by the Superintendent or designee. ²⁴
21. 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. ²⁵

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. ²⁶

Efforts, including the use of positive interventions and supports, 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.²⁷ 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. ²⁸

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

²³ This statement of misconduct restates 105 ILCS 5/10-22.6(d-5), amended by P.A. 100-810. 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 105 ILCS 5/10-22.6(d-5).

²⁴ For more information regarding unmanned aircraft systems, see www.faa.gov/uas/.

²⁵ 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 22: "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."

²⁶ *Possession* should be defined to avoid vagueness problems.

²⁷ See ¶n 17.

²⁸ Mandated by 105 ILCS 5/10-20.36.

Disciplinary Measures 29

School officials shall limit the number and duration of expulsions and out-of-school suspensions to the greatest extent practicable, and, where practicable and reasonable, shall consider forms of non-exclusionary discipline before using out-of-school suspensions or expulsions.³⁰ School personnel shall not advise or encourage students to drop out voluntarily due to behavioral or academic difficulties.³¹ Potential disciplinary measures include, without limitation, any of the following: ³²

1. Notifying parent(s)/guardian(s).
2. Disciplinary conference.
3. Withholding of privileges.
4. Temporary removal from the classroom.
5. Return of property or restitution for lost, stolen, or damaged property. ³³
6. In-school suspension. The Building Principal or designee shall ensure that the student is properly supervised. ³⁴

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

29 IMPORTANT: The practice of suspending or expelling a student based on the number of accumulated disciplinary infractions is illegal under 105 ILCS 5/10-22.6. This includes a system of assigning points to specific infractions and then tallying the points a student receives over a period of time to determine a disciplinary exclusion from school.

Before amendments to 105 ILCS 5/10-22.6, courts used the following factors to determine if a board abused its discretion when it expelled a student: (1) the egregiousness of the student's conduct; (2) the record of the student's past conduct; (3) the likelihood that such conduct will affect the delivery of educational services to other students; (4) the severity of the punishment; and (5) the intent of the child. *Robinson v. Oak Park*, 213 Ill.App.3d (1st Dist. 1991); *Wilson ex rel. Geiger v. Hinsdale Elementary Dist.*, 349 Ill.App.3d 243 (2nd Dist. 2004). Whether courts will continue to use these factors is yet to be determined. The amendments to 105 ILCS 5/10-22 call into question the validity of relying on past misconduct in suspension or expulsion decisions.

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. See *Tun v. Whitticker*, 398 F.3d 899 (7th Cir. 2005)(expulsion did not amount to a substantive due process violation because it fell short of the required *shocks the conscience* standard).

30 105 ILCS 5/10-22.6(b-5). In addition, subsection c-5 states, "[s]chool districts must make reasonable efforts to provide ongoing professional development to teachers, administrators, school board members, school resource officers, and staff on the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, the appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates." 105 ILCS 5/10-22.6(c-5), amended by P.A. 100-810.

31 105 ILCS 5/10-22.6(h).

32 Most school attorneys advise against using a grade reduction as a disciplinary measure. A decision upholding such a policy is *Knigh v. Bd. of Educ.*, 38 Ill.App.3d 603 (4th Dist. 1976). A decision striking one is *Smith v. Sch. City of Hobart*, 811 F.Supp. 391 (N.D.Ind. 1993)(grade reduction policy requiring 9-week grades to be reduced 4% for each day of a suspension was found unconstitutional).

33 While restitution is permitted, issuing a fine or fee as a disciplinary consequence is not permitted. 105 ILCS 5/10-22.6(i). Possible parental liability for damages under the Parental Responsibility Law (740 ILCS 115/5) is discussed in a footnote in sample policy 7:170, *Vandalism*.

34 An in-school suspension program may focus on promoting non-violent conflict resolution and positive interaction with other students and school personnel, and districts may employ a school social worker or a licensed mental health professional to oversee in-school suspension programs. 105 ILCS 5/10-22.6(l), added by P.A. 100-1035. Providing programming during in-school suspensions is not required, however providing such programming will help distinguish them from exclusionary suspensions. See f/n 3 in policy 5:230, *Maintaining Student Discipline*, for further discussion of in-school suspension programs.

7. After-school study or Saturday study³⁵ 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.
8. Community service with local public and nonprofit agencies that enhances community efforts to meet human, educational, environmental, or public safety needs.³⁶ 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.
9. Seizure of contraband; confiscation and temporary retention of personal property that was used to violate this policy or school disciplinary rules. ³⁷
10. Suspension of bus riding privileges in accordance with Board policy 7:220, *Bus Conduct*. ³⁸
11. Out-of-school suspension from school and all school activities in accordance with Board policy 7:200, *Suspension Procedures*.³⁹ A student who has been suspended may also be restricted from being on school grounds and at school activities. ⁴⁰
12. Expulsion from school and all school activities for a definite time period not to exceed 2 calendar years in accordance with Board policy 7:210, *Expulsion Procedures*.⁴¹ A student who has been expelled may also be restricted from being on school grounds and at school activities. ⁴²
13. Transfer 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. ⁴³

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

³⁵ Teachers may not be required to teach on Saturdays. 105 ILCS 5/24-2.

³⁶ See Herndon v. Chapel Hill-Carrboro City Bd., 89 F.3d 174 (4th Cir. 1996)(upheld policy requiring students to complete community service in order to graduate).

³⁷ Consult the board attorney for advice concerning confiscated devices. There is no binding Ill. court decision regarding school personnel seizing and retaining a student's property. The Supreme Court of Arkansas held that a teacher and principal did not violate a student's state or federal rights when they confiscated and retained a student's cell phone for two weeks for violating school rules on cell phones. Koch v. Adams, 361 S.W.3d 817 (Ark. 2010).

³⁸ 105 ILCS 5/10-22.6(b) and (b-30).

³⁹ A suspension may be imposed in only limited situations that vary according to the suspension's length. 105 ILCS 5/10-22.6(b-15). This is explained in sample board policy 7:200, *Suspension Procedures*, and its footnotes

⁴⁰ This sentence is optional. A board may make this mandatory by replacing "may also be" with "shall also be."

⁴¹ An expulsion may be imposed in only limited situations. 105 ILCS 5/10-22.6(b-20). This is explained in sample policy 7:210, *Expulsion Procedures*, and its footnotes.

105 ILCS 5/10-22.6(d) permits expulsion for a definite period of time not to exceed two calendar years. School officials must document whether other interventions were attempted or whether it was determined that there were no other appropriate and available interventions.

⁴² This sentence is optional. A board may make this mandatory by replacing "may also be" with "shall also be."

⁴³ 105 ILCS 5/10-22.6(a) and (b). Subsection 10-22.6(b) uses the phrase "is suspended in excess of 20 school days" even though a 20-consecutive day suspension should be treated as an expulsion. Goss v. Lopez, 419 U.S. 565 (1975). An alternative program is probably available to a student who is suspended for 11 to 20 consecutive days because that student is technically expelled and, as such, qualifies under subsection (a) of Section 10-22.6. Contact the board attorney if the district wants to interpret the statute as referring to *cumulative* school days so that it can transfer a student to an alternative program upon his or her suspension in excess of 20 *cumulative* school days.

Contact the board attorney regarding the necessary due process procedures before imposing a disciplinary transfer to an alternative school. The court in Leak v. Rich Twp. High Sch. Dist. 227 (397 Ill.Dec. 90 (1st Dist. 2015)), held that placement in an alternative school is tantamount to an expulsion. Thus, according to dicta in this decision, districts must follow expulsion procedures before a student is transferred to an alternative school. Schools may still reach agreements with parents/guardians to transfer students to such schools without completing the expulsion procedures.

14. Notifying juvenile authorities or other law enforcement whenever the conduct involves criminal activity, including but not limited to, illegal drugs (controlled substances), *look-alikes*, alcohol, or weapons or in other circumstances as authorized by the reciprocal reporting agreement between the District and local law enforcement agencies. ⁴⁴

The above list of disciplinary measures is a range of options that will not always be applicable in every case. In some circumstances, it may not be possible to avoid suspending or expelling a student because behavioral interventions, other than a suspension and expulsion, will not be appropriate and available, and the only reasonable and practical way to resolve the threat and/or address the disruption is a suspension or expulsion. ⁴⁵

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. ⁴⁶

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

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.

⁴⁴ 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-478. See policy 7:150, *Agency and Policy Interviews*.

⁴⁵ **Note:** Districts that receive early childhood block grant funding (authorized by 105 ILCS 5/1C-2 of the School Code) are prohibited from expelling children from their early childhood programs. 105 ILCS 5/2-3.71(a)(7) and 105 ILCS 5/10-22.6(k), amended by P.A. 100-105. A district may, however, transition a child to a new program if: (1) it has documented evidence that all available interventions and supports recommended by a qualified professional have been exhausted; (2) the program determines that transitioning a child is necessary for the well-being of the child or his or her peers and staff; and (3) the current and pending programs create a transition plan for the child with parent or legal guardian permission. 105 ILCS 5/2-3.71(a)(7)(C). A district may temporarily remove a child from attendance in the group setting in the case of a serious safety threat to a child or others, or in the case of possession of a weapon as described in 105 ILCS 5/10-22.6(d), but it must then begin the process of documenting interventions and supports as outlined in the law. 105 ILCS 5/2-3.71(a)(7)(E). Ill. State Board of Education (ISBE) rules implementing these new requirements are at 23 Ill.Admin.Code §§ 235.300-235.340. As of **PRESS** Issue 104 (June 2020), the ISBE forms required to document steps taken in accordance with these rules were being developed and projected to be available in late summer 2020 at: www.isbe.net/Pages/Early-Childhood.aspx. **Consult the board attorney for advice to ensure compliance with ISBE rules.** Compliance with this law does not relieve a district of its obligations to also comply with the Individuals with Disabilities Education Improvement Act of 2004 when disciplining students with disabilities. For further information, see sample policy 7:230, *Misconduct by Students with Disabilities*. For districts that receive early childhood block grant funding, add the following:

Students enrolled in the District's State-funded preschool program(s) may be temporarily removed or transitioned to a new program in accordance with federal and State law. State law prohibits the expulsion of students from the program(s).

If this language is inserted, add 105 ILCS 5/2-3.71(a)(7) to the Legal References for this policy.

⁴⁶ This paragraph paraphrases 105 ILCS 5/24-24.

Isolated Time Out, Time Out, and Physical Restraint 47

Neither isolated time out, time out, nor physical restraint shall be used to discipline or punish a student. These methods are only authorized for use as permitted in 105 ILCS 5/10-20.33, State Board of Education rules (23 Ill.Admin.Code §§ 1.280, 1.285), and the District's procedure(s).

Weapons 48

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 two 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-alikes* of any *firearm* as defined above.

The expulsion requirement under either paragraph one or two 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. 49

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

47 Isolated time out, time out, or physical restraint may be used by staff members **only** if their use is authorized by policy and administrative procedure. 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, Time Out, and Physical Restraint*. **The sample policy allows the use of isolated time out, time out, and physical restraint pursuant *only* to the conditions allowed in the School Code and ISBE rules.** State statute and ISBE rules contain complex restrictions on the use of isolated time out, time out, and physical restraint. 105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §§1.280(c) and 1.285. According to the ISBE rule, isolated time out, time out, and physical restraints are allowed only if a board authorizes their use in a policy containing the numerous components identified in the rule. To comply with ISBE's rule, a board must also incorporate by reference the district's procedure, i.e., 7:190-AP4, *Use of Isolated Time Out, Time Out, and Physical Restraint*. By doing this, the policy includes the district's procedure. **For a board that wants to prohibit the use of isolated time out, time out, and physical restraint** (1) delete this subhead and its contents; (2) amend the Legal References as follows "23 Ill.Admin.Code §§~~1.280; 1.285.~~" and (3) delete "Incorporated by Reference: 7:190-AP4 (Use of Isolated Time Out, Time Out, and Physical Restraint)".

48 This section paraphrases 105 ILCS 5/10-22.6(d) and contains the statutorily required punishment for bringing a weapon to school along with the statutory definition of *weapon*. 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.

While subsection 105 ILCS 5/10-22.6(b-10) explicitly forbids zero tolerance policies, it provides an exception for those zero tolerance policies established by State or federal law, which includes weapons in school. Section 10-22.6(d) provides that a student who brings a weapon to school, as defined in the section, "shall be expelled for a period not less than one year," unless modified by the superintendent or board. The federal Gun-Free Schools Act (20 U.S.C. §7961 *et seq.*) provides for at least a one year expulsion for students who bring firearms to school. As directed by 20 U.S.C. §7961(b)(1), 105 ILCS 5/10-22.6(d), the superintendent and the board may modify that consequence; however, the superintendent/board may decline to exercise that discretion and instead impose the maximum penalty authorized by law. 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*, 248 Ill.App.3d 534 (1st Dist. 1993).

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.

49 Optional.

This policy's prohibitions concerning weapons apply regardless of whether: (1) a student is licensed to carry a concealed firearm, or (2) the Board permits visitors, who are licensed to carry a concealed firearm, to store a firearm in a locked vehicle in a school parking area. ⁵⁰

Re-Engagement of Returning Students ⁵¹

The Superintendent or designee shall maintain a process to facilitate the re-engagement of students who are returning from an out-of-school suspension, expulsion, or an alternative school setting. The goal of re-engagement shall be to support the student's ability to be successful in school following a period of exclusionary discipline and shall include the opportunity for students who have been suspended to complete or make up work for equivalent academic credit. ⁵²

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.⁵³ Upon receiving such a report, the Building Principal or designee shall immediately notify the local law enforcement agency, Ill. Dept. of State Police (ISP), and any involved student's parent/guardian.⁵⁴ *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 [licensed] 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

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⁵⁰ The Firearm Concealed Carry Act permits a properly licensed individual to carry a concealed firearm within a vehicle into a school parking area and store it a locked vehicle out of plain view. 430 ILCS 66/65(b). The federal Gun-Free Schools Act has a similar provision. 20 U.S.C. §7961(g). The School Code, however, contains no similar exception to the ban on firearms at schools. Contact the board attorney before permitting students to store their firearms in their vehicle's trunk while parked at school.

⁵¹ Required by 105 ILCS 5/10-22.6(b-25). See 7:190-AP8, *Student Re-Engagement Guidelines*.

⁵² A goal for re-engagement is optional. Schools must permit students who were suspended to make-up work for equivalent academic credit. 105 ILCS 5/10-22.6(b-30).

⁵³ 105 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.

⁵⁴ *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, Ill. Dept. of State Police (ISP), and, if a student is reportedly in possession of a firearm, also the student's parents/guardians.

defense of property. Teachers may temporarily remove students from a classroom for disruptive behavior. 55

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 ten consecutive school days, provided the appropriate procedures are followed.⁵⁶ The Board may suspend a student from riding the bus in excess of ten school days for safety reasons. 57

Student Handbook

The Superintendent, with input from the parent-teacher advisory committee,⁵⁸ 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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⁵⁵ 105 ILCS 5/24-24 and 23 Ill.Admin.Code §1.280 require: (1) teachers and other certificated [licensed] employees (except for individuals employed as paraprofessionals) to maintain discipline, and (2) the district to have a policy on discipline that provides that:

[A] teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, school personnel or persons or for the purpose of self defense or the defense of property, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and shall include provisions which provide due process to students. The policy shall not include slapping, paddling or prolonged maintenance of students in physically painful positions nor shall it include the intentional infliction of bodily harm. 105 ILCS 5/24-24.

⁵⁶ Required by 105 ILCS 5/10-22.6(b).

⁵⁷ *Id.*

⁵⁸ The board must establish and maintain a parent-teacher advisory committee to develop guidelines on student discipline. See 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. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook.

Incorporated
by Reference: 7:190-AP4 (Use of Isolated Time Out, Time Out, and Physical Restraint)

LEGAL REF.: 20 U.S.C. §6081, Pro-Children Act of 1994.
20 U.S.C. §7961 *et seq.*, Gun Free Schools Act.
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, 5/22-33, 5/24-24, 5/26-12, 5/27-23.7, 5/31-
3, and 110/3.10.
410 ILCS 130/, Compassionate Use of Medical Cannabis Pilot Program.
410 ILCS 647/, Powdered Caffeine Control and Education Act.
430 ILCS 66/, Firearm Concealed Carry Act.
23 Ill.Admin.Code §§ 1.280, 1.285.

CROSS REF.: 2:150 (Committees), 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 (Prevention of and Response to Bullying,
Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 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; Elementary Schools), 8:30
(Visitors to and Conduct on School Property)

Students

Student Handbook - Gang Activity Prohibited 1

Students are prohibited from engaging in gang activity.² A *gang* is any group of two or more persons whose purpose includes the commission of illegal acts.

No student shall engage in any gang activity, including but not limited to:

1. Wearing, using, distributing, displaying, or selling any clothing, jewelry, emblem, badge, symbol, sign, or other thing that are evidence of membership or affiliation in any gang;
2. Committing any act or omission, or using any speech, either verbal or non-verbal (such as gestures or hand-shakes) showing membership or affiliation in a gang; and
3. Using any speech or committing any act or omission in furtherance of any gang or gang activity, including but not limited to: (a) soliciting others for membership in any gangs, (b) requesting any person to pay protection or otherwise intimidating or threatening any person, (c) committing any other illegal act or other violation of school district policies, (d) inciting other students to act with physical violence upon any other person.

Students engaging in any gang-related activity will be subject to one or more of the following disciplinary actions:³

- Removal from extracurricular and athletic activities
- Conference with parent(s)/guardian(s)
- Referral to appropriate law enforcement agency
- Suspension for up to 10 days
- Expulsion not to exceed two calendar years

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 may impact this student handbook provision; it concerns an area in which the law is unsettled.

This sample procedure is based on a policy used to prohibit gang activity by the district in *Olesen v. School Dist. 228*, 676 F.Supp. 820 (N.D.Ill. 1987). Administrators supervising buildings with frequent gang activity should be familiar with the laws prohibiting such activity, e.g., 740 ILCS 147/ (Ill. Streetgang Terrorism Omnibus Prevention Act); 720 ILCS 5/12-6.2 (gang intimidation); and 720 ILCS 5/12-6.4 (gang recruitment on school grounds).

² Many types of gang activity are illegal; a district's discipline authority, however, may not extend to every criminal act, or to every act of wrongdoing, committed by a student. Districts must generally find a connection between a student's misconduct and the school before it may deprive the student of the student's right to attend school. *Gendelman v. Glenbrook North High School and Northfield Township School Dist. 225*, 2003 WL 21209880 (N.D.Ill. 2003)(student suspensions for hazing at non-school event upheld). School officials may remove students from extra-curricular activities and athletics for non-school-related activities because students do not enjoy a protected property right to such participation. *Clements v. Decatur Public School Dist. 61*, 133 Ill.App.3d 531 (4th Dist. 1985).

This sample procedure assumes that schools have very extensive authority to regulate gang activity because, even if it occurs off school grounds, it severely intimidates students, creates an atmosphere of fear thus impeding student attendance, may lead to violence in school by competing gangs, and may be used to recruit new members from the student body. School boards should seek legal advice on this issue.

The policy at issue in *Olesen v. School Dist. No. 228* used a more limited scope of authority than this policy. Schools that desire to state a more limited scope of authority may substitute the following where indicated:

[Substitute this sentence for the original policy's first sentence] Gang activity is prohibited on or about school grounds, on school buses, or off school grounds at any school activity. *[Continue with original policy]*

[Substitute this sentence for the original policy's first sentence of the second paragraph] No student on or about school grounds, on school buses, or off school grounds at a school activity shall engage in any gang activity, including but not limited to: *[continue with original policy]*

³ Schools may state the possible disciplinary consequences in the manner in which they are stated for other acts of misconduct in the student handbook. 105 ILCS 5/10-22.6(b-10) explicitly forbids zero tolerance policies; therefore, disciplinary consequences should not be stated in a manner that requires suspension or expulsion for particular behaviors.

Students

Administrative Procedure - Use of Isolated Time Out, Time Out, and Physical Restraint 1

This administrative procedure applies to all students. Isolated time out, time out, and physical restraint shall only be used only if the student’s behavior presents an imminent danger of serious physical harm to the student or others, and other less restrictive and intrusive measures were tried and proven ineffective in stopping it. The District may not use isolated time out, time out, and physical restraint as discipline or punishment, convenience for staff, retaliation, a substitute for appropriate educational or behavioral support, a routine safety matter, or to prevent property damage in the absence of imminent danger of serious physical harm to the student or others. Any use of isolated time out, time out, and physical restraint by any staff member shall comply with the Ill. State Board of Education (ISBE) rules, Section 1.285, “Requirements for the Use of Isolated Time Out, Time Out, and Physical Restraint.”

For further guidance, see ISBE’s *Permanent Regulations for the Use of Time Out, Isolated Time Out, and Physical Restraint: Guidance and Frequently Asked Questions*, available at: www.isbe.net/Pages/Special-Education-Regulations-Legislation.aspx. **Note:** The special education committee of the Ill. Council of School Attorneys collaborated with ISBE on this guidance in its continuing commitment to help school boards and their districts comply with ISBE requirements.

A written record of each episode of isolated time out, time out, or physical restraint must be created by the Superintendent or designee using the ISBE *Physical Restraint and Time Out* form, available at: www.isbe.net/Pages/Special-Education-Regulations-Legislation.aspx.

Isolated time out, time out, and physical restraint are defined as follows:

Isolated time out - the involuntary confinement of a student alone in a time out room or other enclosure outside the classroom without a supervising adult in the time out room or enclosure. Isolated time out does not include a student-initiated or student-requested break, a student-initiated or teacher-initiated sensory break, including a sensory room containing sensory tools to assist a student to calm and de-escalate, an in-school suspension or detention, or any other appropriate disciplinary measure, including a student’s brief removal to the hallway or similar environment.

Time Out - a behavior management technique for the purposes of calming or de-escalation that involves the involuntary monitored separation of a student from classmates with an adult trained under 23 Ill.Admin.Code 1.285(i) for part of the school day, only for a brief time, in a non-locked

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1 23 Ill.Admin.Code §§1.280 and 1.285. The rules apply to all students. The rules are so filled with minutiae that schools have very few compliance options. One option is to adopt the Ill. State Board of Education (ISBE) rules by reference. This sample administrative procedure uses that option, which is noted explicitly in item #2, below. **Note: To comply with ISBE rules, the sample AP must include local practices**, for items #three, #four, and #five below. Another option is to prohibit the use of isolated time out, time out, and physical restraint as those terms are defined in the rules. Contact the board attorney for further guidance.

During late Nov. 2019 and early 2020, in response to investigative journalism articles, ISBE issued emergency rules and subsequent amendments to those emergency rules significantly limiting the use of isolated time out and physical restraint (43 Ill. Reg. 14305 (eff. 11-20-19); 43 Ill. Reg. 14941 (eff. 12-4-19); 44 Ill. Reg. 1929 (eff. 1-13-20); 44 Ill. Reg. 4085 (eff. 2-25-20)), and on 4-9-20, it adopted permanent rules governing the use of isolated time out, time out, and physical restraint (permitted under limited circumstances and only until July 1, 2021). 44 Ill. Reg. 6377-6402.

setting. Time out does not include a student-initiated or student-requested break, a student-initiated or teacher-initiated sensory break, including a sensory room containing sensory tools to assist a student to calm and de-escalate, an in-school suspension or detention, or any other appropriate disciplinary measure, including a student's brief removal to the hallway or similar environment.

Physical restraint - holding a student or otherwise restricting a student's movements using a specific, planned technique. A physical restraint shall not impair a student's ability to breathe or communicate normally, obstruct a student's airway, or interfere with a student's ability to speak. *Prone physical restraint* is a physical restraint in which a student is held face down on the floor or other surface and physical pressure is applied to the student's body to keep the student in the prone position. *Supine physical restraint* is a physical restraint in which a student is held face up on the floor or other surface and physical pressure is applied to the student's body to keep the student in the supine position. Until 7-1-21, prone and supine physical restraint is prohibited, unless all of the criteria in §1.285(d)(5) are met. Restraint does not include momentary periods of physical restriction by direct person-to-person contact, without the aid of material or mechanical devices, accomplished with limited force and designed to: (1) prevent a student from completing an act that would result in potential physical harm to himself, herself, or another or damage to property; or (2) remove a disruptive student who is unwilling to leave the area voluntarily.

The following also apply:

1. The circumstances under which isolated time out, time out, or physical restraint will be applied are limited to maintaining a safe and orderly learning environment, to the extent necessary to preserve the safety of the student and others. §1.285(j)(1).
2. The ISBE rules are adopted as the District's written procedure to be followed by staff for the use of isolated time out or physical restraint. §1.285(j)(2).
3. Staff members shall inform the Building Principal whenever isolated time out, time out, or physical restraint is used and the Building Principal shall maintain the documentation required according to Section 1.285(j)(3). §1.285(j)(3).
4. The Building Principal shall investigate and evaluate any incident that results in an injury to the affected student, parent/guardian, staff member, or other individual. §1.285(j)(4).
5. The Superintendent or designee shall compile an annual review of the use of isolated time out, time out, or physical restraint. The Building Principal shall report the following information to the Superintendent or designee in order to facilitate the report's compilation: §1.285(j)(5).
 - a. The number of incidents involving the use of these interventions;
 - b. The location and duration of each incident;
 - c. Identification of the staff members who were involved;
 - d. Any injuries or property damage that occurred; and
 - e. The timeliness of parental or guardian notification, timelines of agency notification, and administrative review.

LEGAL REF.: 105 ILCS 5/10-20.33.
23 Ill.Admin.Code §§1.280 and 1.285.

Students

Student Handbook - Electronic Devices 1

Electronic Signaling Devices 2

Students may not use or possess electronic signaling (paging) devices or two-way radios on school property at any time, unless the Building Principal specifically grants permission.

Cell Phones and Other Electronic Devices 3

The possession and use of smartphones, cell phones, and other electronic devices, other than paging devices and two-way radios, are subject to the following rules:

1. They must be kept out of sight and in an inconspicuous location, such as a backpack, purse, or locker.
2. They must be turned **off** during the regular school day unless the supervising teacher grants permission for them to be used or if needed during an emergency.
3. They may not be used in any manner that will cause disruption to the educational environment or will otherwise violate student conduct rules.
4. They may not be used for creating, sending, sharing, viewing, receiving, or possessing *indecent visual depictions*⁴ or *non-consensual dissemination of private sexual images*⁵ as

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¹ 105 ILCS 5/10-20.28, grants school boards the authority to “establish appropriate rules and disciplinary procedures governing the use or possession of cellular radio telecommunication devices by a student while in a school or on school property, during regular school hours, or at any other time.” The statute contains no mandates. School boards that adopted policies prohibiting students from using or possessing any cell phones on school property must amend those policies before using this sample student handbook language about cell phones and electronic devices.

Some boards may prefer to maintain their ban on cell phone and pager use and possession on school grounds. With the advent of sexting, bans on cell phone and electronic device usage during school hours are viable sexting prevention options. If so, the administration should not change the student handbook’s language with the use this sample language.

² 105 ILCS 5/10-21.10, amended by P.A. 101-87, still prohibits student possession of electronic paging devices unless the school board has expressly authorized use or possession of the device or similar electronic paging device by a student when in a school building or on school property.

³ The School Code does not define *electronic device*, but the Juvenile Court Act provides guidance in its definition of an *electronic communication device*, and the Criminal Code of 2012 provides guidance in its definition of *computer*. Electronic communication device includes, but is not limited to, electronic devices, wireless telephones, personal digital assistants, or portable or mobile computers, that are capable of transmitting images or pictures. 705 ILCS 405/3-40(a). Computer means a device that accepts, processes, stores, retrieves, or outputs data and includes, but is not limited to, auxiliary storage, including cloud-based networks of remote services hosted on the Internet, and telecommunications devices connected to computers. 720 ILCS 5/17-0.5.

Wireless telephone is synonymous with *cellular telephone* (see www.thesaurus.com, listing cellular and wireless telephones as synonyms). Because the terms are synonyms, an electronic communication device also includes a cellular telephone. While the definition of electronic communication device at 705 ILCS 405/3-40(a) appears to make using *cell phone*, *electronic device*, and *computer* redundant, this sample will continue to use *cell phones* and *electronic devices* for simplicity. Change the subhead to *electronic communication devices* if the district wants to use one term.

⁴ 705 ILCS 405/3-40(a). *Indecent visual depiction* means a depiction or portrayal in any pose, posture, or setting involving a lewd exhibition of the unclothed or transparently clothed genitals, pubic area, buttocks, or, if such person is female, a fully or partially developed breast of the person. This law was enacted to provide law enforcement officials an alternative to bringing child pornography charges against minors in possession of indecent visual depictions through placing them under the supervision of juvenile courts.

defined in State law, i.e., *sexting*.⁶ Possession is prohibited regardless of whether the depiction violates State law. Any cellular phone or electronic device may be searched upon reasonable suspicion of sexting or other violations of policy. All sexting violations will require school administrators to follow student discipline policies in addition to contacting the police and reporting suspected child abuse or neglect when appropriate.

Electronic study aids may be used during the school day if:

1. Use of the device is provided in the student's IEP, or
2. Permission is received from the student's teacher; e.g., Bring Your Own Technology (BYOT) programs.

Examples of electronic devices that are used as study aids include: devices with audio or video recording, MP3 players, some cellular telephones, smartphones, laptop computers, Chromebooks®, and tablet computers or devices, e.g., iPads®.

Examples of electronic devices that are **not** used as study aids include: hand-held electronic games, CD players, MP3 players used for a purpose other than a study aid, global positioning systems (GPS), radios, and cellular telephones (with or without cameras) used for a purpose other than a study aid.

The use of technology as educational material in a curriculum-based program is not a necessity but a privilege, and a student does not have an absolute right to use his or her electronic device while at school. If applicable, using technology as a study aid must always follow the established rules for the BYOT program. Using technology at all other times must always follow the established rules for cell phones and other electronic devices at school.

The School District is not responsible for the loss or theft of any electronic device brought to school.

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⁵ 720 ILCS 5/11-23.5. *Non-consensual dissemination of private sexual images* is a crime. It is committed when a person:

- (1) intentionally disseminates an image of another person:
 - (A) who is at least 18 years of age; and
 - (B) who is identifiable from the image itself or information displayed in connection with the image; and
 - (C) who is engaged in a sexual act or whose intimate parts are exposed, in whole or in part; and
- (2) obtains the image under circumstances in which a reasonable person would know or understand that the image was to remain private; and
- (3) knows or should have known that the person in the image has not consented to the dissemination.

⁶ *Id.* *Sexting* is a portmanteau word of sex and texting with no clear definition. It is commonly explained as the act of sending sexually explicit photos, images, or messages electronically, primarily by mobile phone or the internet. For purposes of this procedure, it includes *indecent visual depiction* (see f/n 4) and *non-consensual dissemination of private sexual images* (see f/n 5).

Students

Exhibit - Student Handbook Checklist

The Checklist contains mandatory and recommended notices that schools should give to their students and the students' parents/guardians.¹ *Mandatory* means the notices are legally required. *Recommended* means including the notices are a best practice. The Checklist is in the IASB Policy Reference Manual (PRM) format, and it lists corresponding policies, procedures, and exhibits in numerical order within each sub-headed category. A corresponding citation to the Illinois Principals Association **Online Model Student Handbook (MSH)** is also listed, if one exists. Any handbook should be reviewed by the Board Attorney before distribution to ensure that all mandatory notices are included as this Checklist is subject to change without notice. This Checklist is not a substitute for legal advice.

Mandatory Notices

Student Services

Mandatory Topics	IASB PRM	IPA MSH
Transportation	4:110, <i>Transportation</i>	4.10, <i>Bus Transportation</i>
Transportation reimbursement eligibility and dispute resolution Note: this program has been withdrawn due to lack of funding	4:110, <i>Transportation</i>	4.10, <i>Bus Transportation</i>
Eligibility criteria for free and reduced lunch	4:130, <i>Free and Reduced-Price Food Services</i> 4:130-E, <i>Free and Reduced-Price Food Services; Meal Charge Notifications</i>	3.10, <i>Fees, Fines & Charges; Waiver of Student Fees</i>
Waiver of school fees along with the fee waiver application form	4:140, <i>Waiver of Student Fees</i> 4:140-AP, <i>Fines, Fees, and Charges - Waiver of Student Fees</i> 4:140-E1, <i>Application for Fee Waiver</i> 4:140-E2, <i>Response to Application for Fee Waiver, Appeal, and Response to Appeal</i>	3.10, <i>Fees, Fines & Charges; Waiver of Student Fees</i> 3.10-E1, <i>Application for Fee Waiver</i>
School Wellness	6:50, <i>School Wellness</i>	

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¹ In its continuing commitment to help school districts comply with legal requirements for all policies and procedures, the Illinois Principals Association (IPA) in conjunction with the Illinois Association of School Boards' (IASB) **PRESS**, have prepared this checklist to assist school administrators in preparing their student handbooks. A special thank you also goes to the law firm of Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP for allowing IPA and IASB to cross check this *Student Handbook Checklist* against its annual version.

Mandatory Topics	IASB PRM	IPA MSH
(required if the District participates in the National School Lunch Program or Breakfast Program)		
Alternative learning opportunities	6:110, <i>Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program</i>	2.90, <i>Credit for Proficiency, Non-District Experiences, Course Substitutions and Accelerated Placement</i>
Notification to parents/guardians of English Learners regarding their child's placement in, and information about, the District's English Learners programs	6:160, <i>English Learners</i>	12.60, <i>English Learners</i>
Parental involvement under Title I (only when the district receives Title I funds)	6:170, <i>Title I Programs</i> 6:170-AP1, <i>Checklist of Development, Implementation, and Maintenance of Parent and Family Engagement Compacts for Title I Programs</i> 6:170-AP1, E1, <i>District-Level Parent and Family Engagement Compact</i> 6:170-AP1, E2, <i>School-Level Parent and Family Engagement Compact</i> 6:170-AP2, <i>Notice to Parents Required by Elementary and Secondary Education Act, McKinney-Vento Homeless Assistance Act, and Protection of Pupil Rights Act</i>	12.130, <i>Parent Notices Required by the Every Student Succeeds Act</i>
Notice to parents required by the Elementary and Secondary Education Act	6:170-AP2, <i>Notice to Parents Required by Elementary and Secondary Education Act, McKinney-Vento Homeless Assistance Act, and Protection of Pupil Rights Act</i>	
Surveys that request personal information from students	7:15, <i>Student and Family Privacy Rights</i>	11.10, <i>Student Privacy Protections</i>
Birth certificate requirements for enrollment	7:50, <i>School Admissions and Student Transfers To and From Non-District Schools</i>	

Mandatory Topics	IASB PRM	IPA MSH
	<i>7:50-AP, School Admissions and Student Transfers To and From Non-District Schools</i>	
Dental examinations	<i>7:100, Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students</i>	
Eye examinations (K and students enrolling in public school for the first time only)	<i>7:100, Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students</i>	
Vaccinations (influenza and meningococcal)	<i>7:100, Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students</i>	
Administration of medications (includes asthma inhalers and epinephrine injectors, opioid antagonists, and glucagon)	<i>7:270, Administering Medicines to Students 7:270-AP1, Dispensing Medication 7:270-E1, School Medication Authorization Form</i>	<i>5.20, Student Medication 5.20-E1, Student Medication Authorization Form</i>

Student Programs

Mandatory Topics	IASB PRM	IPA MSH
Notice of instruction in recognizing and avoiding sexual abuse (K-8 only)	<i>6:60-AP, Comprehensive Health Education Program 6:60-AP, E1, Notice to Parents/Guardians of Students Enrolled in Family Life and Sex Education Classes</i>	<i>12.40, Sex Education Instruction 12.40-E1, Notice to Parents on Sex Education Instruction</i>
Free appropriate public education to students with disabilities Special education services to eligible children whether or not enrolled in the District	<i>6:120, Education of Children with Disabilities 6:120-AP1, Special Education Procedures Assuring the Implementation of Comprehensive Programming for Children with Disabilities (downloadable from IASB's website, www.iasb.com) 6:120-AP1, E1, Notice to Parents/Guardians Regarding Section 504 Rights</i>	<i>10.10, Education of Children with Disabilities</i>

Student Responsibilities

Mandatory Topics	IASB PRM	IPA MSH
IHSA policy on banned substances	<i>6:190, Extracurricular and Co-</i>	<i>9.10, Extracurricular</i>

Mandatory Topics	IASB PRM	IPA MSH
(required only for IHSA schools)	<i>Curricular Activities</i> 6:190-AP, <i>Academic Eligibility for Participation in Extracurricular Activities</i> 7:240, <i>Conduct Code for Participants in Extracurricular Activities</i> 7:240-AP1, <i>Code of Conduct for Extracurricular Activities</i>	<i>and Athletic Activities Code of Conduct</i>
Absenteeism and truancy	7:70, <i>Attendance and Truancy</i>	2.10, <i>Attendance</i> 2.50, <i>Truancy</i>
Statement of district ownership of and right to search student lockers	7:140, <i>Search and Seizure</i>	8.10, <i>Search and Seizure</i>
Search procedures for school grounds and lockers	7:140, <i>Search and Seizure</i>	8.10, <i>Search and Seizure</i>
Notification regarding access to student accounts or profiles on social networking websites	7:140, <i>Search and Seizure</i> 7:140-E, <i>Letter to Parents/Guardians Regarding the Right to Privacy in the School Setting Act</i>	8.10, <i>Search and Seizure</i>
Bullying prohibited and reporting encouraged	7:180, <i>Prevention of and Response to Bullying, Intimidation, and Harassment</i>	6.40, <i>Prevention of and Response to Bullying, Intimidation, & Harassment</i> 6.40-E1, <i>Aggressive Behavior Reporting Form</i>
Teen dating violence prohibited and reporting encouraged	7:185, <i>Teen Dating Violence Prohibited</i>	
Prohibition of electronic paging devices and making threat by Internet	7:190, <i>Student Behavior</i>	6.30, <i>Student Behavior</i>
All prohibited conduct in the school discipline code, including, but not limited to: 1. Controlled substances 2. Firearms and other weapons 3. E-cigarettes 4. Gangs and gang-related activity 5. Sexting prohibited	4:170-AP2, E4, <i>Letter to Parents/Guardians About Preventing and Reducing Incidences of Sexting</i> 7:190, <i>Student Behavior</i> 7:190-AP5, <i>Student Handbook - Electronic Devices</i> 7:190-AP6, <i>Guidelines for Investigating Sexting Allegations</i>	6.30, <i>Student Behavior</i>

Mandatory Topics	IASB PRM	IPA MSH
Inform parents/guardians when their child engaged in aggressive behavior along with the school's early intervention procedures	7:190-E1, <i>Aggressive Behavior Reporting Letter and Form</i>	6.40-E1, <i>Aggressive Behavior Reporting Form</i>
Suspension and expulsion, and due process requirements	7:200, <i>Suspension Procedures</i> 7:210, <i>Expulsion Procedures</i>	
School bus safety	7:220, <i>Bus Conduct</i> 4:110-AP3, <i>School Bus Safety Rules</i>	4.10, <i>Bus Transportation</i>
Videotape surveillance of buses (if applicable)	7:220, <i>Bus Conduct</i> 7:220-AP, <i>Electronic Recordings on School Buses</i>	4.10, <i>Bus Transportation</i>
Behavior interventions (these may be developed through the Spec. Ed. Coop if the district belongs to one)	7:230, <i>Misconduct by Students With Disabilities</i>	
Dress code	7:160, <i>Student Appearance</i>	6.20, <i>School Dress Code & Student Appearance</i>
All other conduct prohibited by Board policy - school discipline code	7:190, <i>Student Behavior</i>	6.30, <i>Student Behavior</i>

Student Rights

Mandatory Topics	IASB PRM	IPA MSH
Notice of non-discrimination coordinator(s) and making complaint of discrimination or sexual harassment	2:260, <i>Uniform Grievance Procedure</i>	6.40, <i>Prevention of and Response to Bullying, Intimidation & Harassment</i>
Prohibition of discrimination on the basis of race, color, national origin, sex, sexual orientation, ancestry, age, religious beliefs, physical or mental disability, status as homeless, or actual or potential marital or parental status, including pregnancy	7:10, <i>Equal Educational Opportunities</i>	1.50, <i>Equal Opportunity & Sex Equity</i>
Sex equity and grievance procedures	2:260, <i>Uniform Grievance Procedure</i> 7:10, <i>Equal Educational Opportunities</i>	1.50, <i>Equal Opportunity & Sex Equity</i>
Sexual harassment prohibited and grievance procedures and age-	2:260, <i>Uniform Grievance Procedure</i>	6.45, <i>Sexual Harassment &</i>

Mandatory Topics	IASB PRM	IPA MSH
appropriate information about the sexual harassment policy	7:20, <i>Harassment of Students Prohibited</i>	<i>Teen Dating Violence Prohibited</i>
Notify parents of their right to request their child's classroom teachers' qualifications	5:190-E1, <i>Notice to Parents of Their Right to Request Their Child's Classroom Teachers' Qualifications</i>	12.130, <i>Parent Notices Required by the Every Student Succeeds Act</i>
Educational rights of homeless students in the location where homeless children receive services	6:140, <i>Education of Homeless Children</i> 6:140-AP, <i>Education of Homeless Children</i>	12.30, <i>Homeless Child's Right to Education</i>
Notice of parent and student rights under the Children's Privacy Protection and Parental Empowerment Act	7:15, <i>Student and Family Privacy Rights</i> 7:15-E, <i>Notification to Parents of Family Privacy Rights</i>	11.10, <i>Student Privacy Protections</i>
Notice to parents/guardians about social network passwords	7:140, <i>Search and Seizure</i> 7:140- E, <i>Letter to Parents/Guardians Regarding the Right to Privacy in the School Setting Act</i>	6.70, <i>Access to Student Social Networking Passwords & Websites</i>
Notice concerning privacy and access rights to school student records	7:340, <i>Student Records</i> 7:340-AP1, E1, <i>Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records</i> 7:340-AP1, E2, <i>Using a Photograph or Video Recording of a Student</i>	11.20, <i>Student Records</i>
Disclosure of directory information	7:340-AP1, E1, <i>Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records</i> 7:340-AP1, E2, <i>Using a Photograph or Video Recording of a Student</i>	11.20, <i>Student Records</i>
Information classified as directory information and for objecting to disclosure of information	7:340-AP1, E1, <i>Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records</i>	11.20, <i>Student Records</i>
Military recruiting	7:340-AP1, E3, <i>Letter to Parents and Eligible Students Concerning Military Recruiters and Postsecondary Institutions Receiving Student Directory Information</i>	11.20, <i>Student Records</i>

Mandatory Topics	IASB PRM	IPA MSH
	7:340-AP1, E4, <i>Frequently Asked Questions Regarding Military Recruiter Access to Students and Student Information</i>	
Student biometric information (when applicable)	7:340, <i>Student Records</i> 7:340-AP1, E5, <i>Biometric Information Collection Authorization</i>	11.30, <i>Student Biometric Information</i>
Notice to parents/guardians concerning student data collected by schools and operators under the Student Online Personal Protection Act	7:345-AP, E2, <i>Student Data Privacy; Notice to Parents About Educational Technology Vendors</i>	
Notice of disability accommodation	8:70, <i>Accommodating Individuals with Disabilities</i>	1.110, <i>Accommodating Individuals with Disabilities</i>

General Information

Mandatory Topics	IASB PRM	IPA MSH
Notice before a pesticide application	4:160, <i>Environmental Quality of Buildings and Grounds</i> 4:160-AP, <i>Environmental Quality of Buildings and Grounds</i>	12.80, <i>Pesticide Application Notice</i>
Availability of information concerning sex offenders	4:175-AP1, <i>Criminal Offender Notification Laws; Screening</i> 4:175-AP1, E1, <i>Informing Parents/Guardians About Offender Community Notification Laws</i>	12.120, <i>Violent Offender Community Notification</i>
School bus safety	4:110-AP3, <i>School Bus Safety Rules</i>	4.10, <i>Bus Transportation</i>
Asbestos management plan, notice of availability		
Notice to parents/guardians and staff of IHSA's online training video about hands-only CPR and AED	4:170, <i>Safety</i> 4:170-AP6, E1, <i>School Staff AED Notification Letter</i>	
Notice that a student athlete and his/her parent must sign acknowledgement of receiving the concussion policy (required only for	7:305, <i>Student Athlete Concussions and Head Injuries</i> 7:305-AP, <i>Program for Managing Student Athlete Concussions and</i>	9.30, <i>Student Athlete Concussions and Head Injuries</i>

Mandatory Topics	IASB PRM	IPA MSH
IHSA schools)	<i>Head Injuries</i>	
School visitation rights notice	8:95-E1, <i>Letter Notifying Parents/Guardians of School Visitation Rights</i> 8:95-E2, <i>Verification of School Visitation</i>	12.70, <i>School Visitation Rights</i>

Recommended Notices

Student Services

Recommended Topics	IASB PRM	IPA MSH
Information regarding waiver of student fees	4:140, <i>Waiver of Student Fees</i>	
Fire drill program, building specific plan	4:170, <i>Safety</i> 4:170-AP1, <i>Comprehensive Safety and Security Plan</i>	5.40, <i>Safety Drill Procedures and Conduct</i>
School safety plans, including severe weather and injury or sudden illness	4:170, <i>Safety</i> 4:170-AP1, <i>Comprehensive Safety and Security Plan</i> 4:170-AP1, E1, <i>Accident or Injury Form</i>	2.100, <i>Home and Hospital Instruction</i>
Targeted school violence prevention program, including threat assessment teams	4:190, <i>Targeted School Violence Prevention Program</i> 4:190-AP2, <i>Threat Assessment Team (TAT)</i>	
Home and hospital instruction	6:150, <i>Home and Hospital Instruction</i>	2.100, <i>Home and Hospital Instruction</i>
Student residency and tuition	7:60, <i>Residence</i> 7:60-AP1, <i>Challenging a Student's Residence Status</i> 7:60-AP2, <i>Establishing Student Residency</i> 7:60-AP2, E1, <i>Letter of Residence from Landlord in Lieu of Lease</i> 7:60-AP2, E2, <i>Letter of Residence to be Used When the Person Seeking to Enroll a Student is Living with a District Resident</i> 7:60-AP2, E3, <i>Evidence of Non-Parent's Custody, Control and Responsibility of a Student</i>	
Parking, building specific	7:140, <i>Search and Seizure</i>	4.20, <i>Parking</i>

Recommended Topics	IASB PRM	IPA MSH
Health and guidance counselor and social work access	7:250, <i>Student Support Services</i>	5.30, <i>Guidance & Counseling</i>
Communicable and infectious disease	7:280, <i>Communicable and Chronic Infectious Disease</i> 7:280-AP, <i>Managing Students with Communicable and Infectious Diseases</i>	5.50, <i>Communicable Disease</i> 5.60, <i>Head Lice</i>
Students with diabetes	6:120-AP4, <i>Care of Students with Diabetes</i>	1.130, <i>Care of Students with Diabetes</i> 1.130-E1, <i>Authorization to Provide Diabetic Care</i>
Medical cannabis administration	7:270-E2, <i>School Medication Authorization Form - Medical Cannabis</i>	
Food allergy management program	7:285, <i>Food Allergy Management Program</i> 7:285-AP, <i>Implementing a Food Allergy Management Program</i>	1.120, <i>Students with Food Allergies</i>
Telephone use, building specific		

Student Programs

Recommended Topics	IASB PRM	IPA MSH
Weighted grades	6:280-AP, <i>Evaluating and Reporting Student Achievement</i>	
District philosophy and goals	1:30, <i>School District Philosophy</i> 3:10, <i>Goals and Objectives</i> 6:10, <i>Educational Philosophy and Objectives</i>	
Remote Learning and/or e-learning program(s)	6:20, <i>School Year Calendar and Day</i> 6:20-AP, <i>Remote and/or Blended Remote Learning Day Plan(s)</i>	
Anti-bias curriculum	6:60, <i>Curriculum Content</i>	
Driver education eligibility and requirements (high schools only)	6:60, <i>Curriculum Content</i>	
Parental objections to sex education, family life instruction, and sexually transmitted diseases	6:60-AP, E1, <i>Notice to Parents/Guardians of Students Enrolled in Family Life and Sex</i>	12.40, <i>Sex Education Instruction</i> 12.40-E1, <i>Notice to</i>

Recommended Topics	IASB PRM	IPA MSH
	<i>Education Classes</i>	<i>Parents on Sex Education Instruction</i>
Biking and Walking Safety Education	6:60-AP, E2, <i>Resources for Biking and Walking Safety Education</i>	
Accelerated placement availability	6:135, <i>Accelerated Placement Program</i>	2:90, <i>Credit for Proficiency, Non-District Experiences, Course Substitutions and Accelerated Placement</i>
Adaptive physical education program exemption	6:310, <i>High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students</i>	2.80, <i>Exemption from PE Requirement (Regular Education)</i>
Bilingual education availability	6:160, <i>English Learners</i>	12.60, <i>English Learners</i>
Co-curricular activities	6:190, <i>Extracurricular and Co-Curricular Activities</i>	9.10, <i>Extracurricular and Athletic Activities Code of Conduct</i>
“No Pass, No Play”	6:190, <i>Extracurricular and Co-Curricular Activities</i> 6:190-AP, <i>Academic Eligibility for Participation in Extracurricular Activities</i>	9.10, <i>Extracurricular and Athletic Activities Code of Conduct</i>
Parental right to review instructional materials	6:210, <i>Instructional Materials</i>	11.10, <i>Student Privacy Protections</i>
Acceptable use and Internet safety	6:235, <i>Access to Electronic Networks</i> 6:235-AP1, <i>Acceptable Use of the District’s Electronic Networks</i> 6:235-AP1, E1, <i>Student Authorization for Access to the District’s Electronic Networks</i> 6:235-AP1, E2, <i>Staff Authorization for Access to the District’s Electronic Networks</i>	7.10, <i>Internet Acceptable Use</i> 7.10-E1, <i>Internet Acceptable Use Sign-Off</i>
Social promotion	6:280, <i>Grading and Promotion</i> 6:280-AP, <i>Evaluating and Reporting Student Achievement</i>	2.60, <i>Grading and Promotion</i>

Recommended Topics	IASB PRM	IPA MSH
High school graduation requirements (high schools only)	6:300, <i>Graduation Requirements</i>	2.120, <i>Graduation Requirements</i>
Right of students with IEP to participate in graduation ceremony (high schools only)	6:300, <i>Graduation Requirements</i>	10.40, <i>Certificate of High School Completion</i>
Physical education, including waiver of required classes	6:310, <i>High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students</i>	2.80, <i>Exemption from PE Requirement (Regular Education)</i> 10.30, <i>Exemption from PE Requirement (Special Education)</i>
Class schedules, building specific		
Schedule of testing programs, building specific	6:340, <i>Student Testing and Assessment Program</i>	
Student distribution of non-curricular material	7:310, <i>Restrictions on Publications; Elementary Schools</i> 7:310-AP, <i>Guidelines for Student Distribution of Non-School Sponsored Publications; Elementary Schools</i> 7:315, <i>Restrictions on Publications; High Schools</i> 7:315-AP, <i>Guidelines for Student Distribution of Non-School Sponsored Publications; High Schools</i>	7.20, <i>Guidelines for Student Distribution of Non-School Sponsored Publications</i>

General Information

Recommended Topics	IASB PRM	IPA MSH
School calendar	6:20, <i>School Year Calendar and Day</i>	
Field trip	6:240, <i>Field Trips</i> 6:240-AP, <i>Field Trip Guidelines</i>	6.60, <i>Field Trips</i>
Release time for religious instruction/observance	7:80, <i>Release Time for Religious Instruction/Observance</i>	2.30, <i>Release Time for Religious Instruction and Observance</i>
Release time for students voting in elections	7:90, <i>Release During School Hours</i>	
Extra-curricular drug and alcohol testing (if applicable)	7:240-AP2, <i>Extracurricular Drug and Alcohol Testing Program</i> 7:240-AP2, E1, <i>Consent to</i>	9.10, <i>Extracurricular and Athletic Activities Code of</i>

Recommended Topics	IASB PRM	IPA MSH
	<i>Participate in Extracurricular Drug and Alcohol Testing Program</i>	<i>Conduct</i>
Eligibility to remove college entrance exams from student transcripts	7:340, <i>Student Records</i>	11.20, <i>Student Records</i>
Equal access to school facilities	8:20, <i>Community Use of School Facilities</i>	
Identification and registration of persons entering the school building	8:30, <i>Visitors to and Conduct on School Property</i>	1.40, <i>Visitors</i>
Statement that the handbook is: 1. Only a summary of board policies governing the district; board policies are available to the public at the district office 2. A document that may be amended during the year without notice 3. Is a communication tool of all policies to persons expected to execute and comply with them	2:240, <i>Board Policy Development</i>	1.20, <i>Student Handbook Acknowledgement</i> 1.30, <i>General School Information</i>
Address of District offices, list of administrators, and contact information	2:250, <i>Access to District Public Records</i> 2:250-E2, <i>Immediately Available District Public Records and Web-Posted Reports and Records</i>	1.30, <i>General School Information</i>
Board members' names	2:250, <i>Access to District Public Records</i> 2:250-E2, <i>Immediately Available District Public Records and Web-Posted Reports and Records</i>	1.30, <i>General School Information</i>
List of District school addresses	2:250, <i>Access to District Public Records</i> 2:250-E2, <i>Immediately Available District Public Records and Web-Posted Reports and Records</i>	1.30, <i>General School Information</i>

Special Circumstance Notifications

Special Circumstance Topics	IASB PRM	IPA MSH
Notification for unsafe school transfer choice	4:170, <i>Safety</i> 4:170-AP5, <i>Unsafe School Choice Option</i>	12.100, <i>Unsafe School - Transfer</i>

Special Circumstance Topics	IASB PRM	IPA MSH
Notification of right to review teachers' qualifications	5:190, <i>Teacher Qualifications</i> 5:190-E1, <i>Notice to Parents of Their Right to Request Their Child's Classroom Teachers' Qualifications</i> 5:190-E2, <i>Notice to Parents When Their Child Is Assigned To or Has Been Taught for at Least Four Straight Weeks By a Teacher Who Does Not Meet Applicable State Certification/Licensure Requirements</i> 5:190-E3, <i>Letter to Teacher Who Does Not Meet Applicable State Certification/Licensure Requirements for the Grade Level and Subject Area of Assignment</i>	12.130, <i>Parent Notices Required by the Every Student Succeeds Act</i>
Notice when: 1. Student is being taught by a teacher who is not highly qualified, 2. School identified as in need of improvement, 3. Schools are identified for corrective action, 4. Schools are identified for restructuring, 5. There is eligibility for supplemental educational services, and 6. The district offers voluntary school choice, if applicable.	5:190-E2, <i>Notice to Parents When Their Child Is Assigned To or Has Been Taught for at Least Four Straight Weeks By a Teacher Who Does Not Meet Applicable State Certification/Licensure Requirements</i> 6:15, <i>School Accountability</i>	
Credit for proficiency	6:110, <i>Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program</i>	2.90, <i>Credit for Proficiency, Non-District Experiences, Course Substitutions and Accelerated Placement</i>

Students

Administrative Procedure - Electronic Recordings on School Buses 1

Review of Electronic Recordings 2

Electronic video and audio recordings are viewed to investigate an incident reported by a bus driver, administrator, law enforcement officer working in the District, supervisor, student, or other person. They are also viewed at random.

Viewing and/or listening to electronic video and/or audio recordings is limited to law enforcement officers working in the District and District personnel. These individuals must have, (1) a law enforcement, security, or safety reason, or (2) a need to investigate and/or monitor student or driver conduct. A written log will be kept of those individuals viewing a video recording stating the time, name of individual viewing it, and date the video recording was viewed.

If the content of an electronic recording becomes the subject of a student disciplinary hearing, it will be treated like other evidence in the proceeding.

An electronic video or audio recording may be reused or erased after 14 days unless it is needed for an educational or administrative purpose. 3

Notice of Electronic Recordings 720 ILCS 5/14-3(m).

The Eavesdropping Act exempts electronic recordings on school buses from its coverage when transportation is provided for a school activity, provided the School Board adopted a policy authorizing their use. Notice of the adopted policy regarding video and audio recordings shall be: (1)

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1 The superintendent should consult with the board attorney concerning the status of video and/or audio recordings that were made on school buses. This procedure implements the statutory prerequisites for districts using electronic audio and visual recording devices on school buses. 720 ILCS 5/14-3(m). These required prerequisites are contained in an exception to the criminal eavesdropping statute. It prohibits recording a conversation in which someone has a reasonable expectation of privacy without the consent of all parties but allows citizens to record public conversations without obtaining consent.

2 Confusion surrounds whether or not electronic video or audio recordings are *education records* for purposes of the federal Family Education Rights and Privacy Act (FERPA)(20 U.S.C. §1232g) and/or *school student records* as defined in the Ill. School Student Records Act (ISSRA)(105 ILCS 10/).

The U.S. Dept. of Education *FAQs on Photos and Videos under FERPA*, at www.studentprivacy.ed.gov/faq/faqs-photos-and-videos-under-ferpa, states that a video of a student is an education record, subject to specific exclusions, when the video is: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. *Id.*, citing 20 U.S.C. §1232g(a)(4)(A); 34 C.F.R. §99.3. One such exclusion is for records created and maintained by a law enforcement unit of an educational agency or institution for law enforcement purposes. *Id.*, citing 20 U.S.C. §1232g(a)(4)(B)(ii); 34 C.F.R. §§ 99.3, 99.8. The Ill. State Board of Education (ISBE) considerably reduced the confusion by stating in its rule that *school student records* do not include video or other electronic recordings “created at least in part for law enforcement or security or safety reasons or purposes.” 23 Ill.Admin.Code §375.10. ISBE rules also specify that: (1) electronic recordings made on school buses, as defined in the exemption from the criminal offense of eavesdropping in 720 ILCS 5/14-3, are not *school student records*, (*Id.*) and (2) no image on a school security recording may be designated as directory information (23 Ill.Admin.Code §375.80(a)(2)(B)). This treatment exempts school bus videos from the multiple requirements in ISSRA. When responding to a request under the Freedom of Information Act (5 ILCS 140/) for recordings on school buses, a district will need to find an exemption other than the recording is a *school student record*.

3 The superintendent may change the number of days for keeping a video recording. The Local Records Act (LRA) governs the destruction of public records. 50 ILCS 205/. Unless a record contains informational data appropriate for preservation, the LRA is not triggered and the record may be destroyed. Electronic recordings on school buses may be destroyed because they typically do not contain informational data appropriate for preservation.

clearly posted on the front door and interior of the school bus, (2) provided to students and parents/guardians, and (3) included in student handbooks and other documents.

Students

Student Records 1

School student records are confidential. Information from them shall not be released other than as provided by law.² A school student record is any writing or other recorded information concerning a

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¹ State law requires school boards to adopt a policy and procedures implementing the Illinois School Student Records Act (ISSRA) and specifying the content of school student records. 23 Ill.Admin.Code §§375.100 and 226.740. Both State and federal law address school student records. See the federal Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. §1232g) implemented by federal rules at 34 C.F.R. Part 99) and ISSRA (105 ILCS 10/, amended by P.A.s 101-515 and 100-532, implemented by ISBE rules at 23 Ill.Admin.Code Part 375).

In addition, the U.S. Dept. of Education's (DOE) *Protecting Student Privacy* webpage, a service of the Privacy Technical Assistance Center (PTAC) and the Student Privacy Policy Office, is a *one-stop* resource for education stakeholders to learn about student privacy and confidentiality, including data privacy and security practices related to student-level longitudinal data systems, at: www.studentprivacy.ed.gov/. PTAC published a guide for school officials titled *Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices* (2014), at: www.studentprivacy.ed.gov/resources/protecting-student-privacy-while-using-online-educational-services-requirements-and-best.

The DOE also issued a summary of resources on FERPA and virtual learning (2020) at: www.studentprivacy.ed.gov/resources/ferpa-and-virtual-learning. **Boards that wish to enter into cloud computing and other operator contracts must comply with the Student Online Personal Protect Act (SOPPA), 105 ILCS 85/, amended by P.A. 101-516, eff. 7-1-21, and should contact the board attorney for implementation guidance.** See also f/n 2, item #7, below.

Confusion persists regarding the interplay between the FERPA and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. 104-191). The Privacy Rule implementing HIPAA, issued by the U.S. Dept. of Health and Human Services (DHS), addresses the disclosure of individuals' health information by *covered entities*. 45 C.F.R. Parts 160 and 164, Subparts A and E. Generally speaking, a school district becomes a *covered entity*, and must comply with applicable sections in the Privacy Rule, if it provides health care and transmits health information in electronic form in connection with transactions. However, *educational records* as defined by FERPA are excluded from HIPAA's definition of *protected health information*. 45 C.F.R. §160.103. In most cases this exception relieves school districts of complying with burdensome privacy notices and authorization forms. In December 2019, DHS and DOE issued an update to its *Joint Guidance on the Application of FERPA and HIPAA to Student Health Records*, at:

www.studentprivacy.ed.gov/sites/default/files/resource_document/file/2019%20HIPAA%20FERPA%20Joint%20Guidance%20508.pdf.

The board attorney should be consulted on all HIPAA-related questions.

² A plethora of statutory and decisional law protects student records. Aside from the laws identified in f/n 1, other laws protecting student records include:

1. Schools may not provide a student's *personal information* to a business organization or financial institution that issues credit or debit cards. 105 ILCS 5/10-20.38.
2. Schools may not sell personal information concerning a child under the age of 16, with a few exceptions, unless a parent has consented. Children's Privacy Protection and Parental Empowerment Act, 325 ILCS 17/.
3. The release of confidential information given by a student to a therapist, e.g., school counselor or psychologist, is governed by the Mental Health and Developmental Disabilities Confidentiality Act. 740 ILCS 110/.
4. Schools must keep a sex offender registration form received from law enforcement separately from school student records maintained on behalf of the juvenile sex offender. 730 ILCS 152/121.
5. Divorced or separated parents/guardians with and without *parental responsibility* (formerly custody) are both permitted to inspect and copy the student's school student records. The Ill. Marriage and Dissolution of Marriage Act (IMDMA), 750 ILCS 5/602.11.
6. Schools may not provide a parent/guardian access to his or her child's school records if the parent is prohibited by an order of protection from inspecting or obtaining such records pursuant to the Domestic Violence Act of 1986 or the Code of Criminal Procedure of 1963. *Id.*

student and by which a student may be identified individually that is maintained by a school or at its direction by a school employee, regardless of how or where the information is stored, except as provided in State or federal law as summarized below: ³

1. Records kept in a staff member's sole possession.
2. Records maintained by law enforcement officers working in the school. ⁴
3. Video and other electronic recordings (including without limitation, electronic recordings made on school buses⁵) that are created in part for law enforcement, security, or safety reasons or purposes. The content of these recordings may become part of a school student record to the extent school officials create, use, and maintain this content, or it becomes available to them by law enforcement officials, for disciplinary or special education purposes regarding a particular student.
4. Any information, either written or oral, received from law enforcement officials concerning a student less than the age of 17 years who has been arrested or taken into custody. ⁶

State and federal law grants students and parents/guardians certain rights, including the right to inspect, copy⁷, and challenge school student records.⁸ The information contained in school student

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7. SOPPA (105 ILCS 85/, amended by P.A. 101-516, eff. 7-1-21) addresses a school district's obligations related to *covered information* of students and contracts with educational technology operators. In some instances, covered information as defined under SOPPA may also qualify as education records under FERPA and school student records under ISSRA. See policy 7:345, *Educational Technology Use; Student Data Privacy and Security*, and administrative procedure 7:345-AP1, *Educational Technology Use; Student Data Privacy and Security*, for a description of SOPPA obligations.

Note: Nos. 5 and 6 above may conflict with FERPA in that they restrict a parent/guardian's right to access his or her child's school records more than is expressly permitted by FERPA. 20 U.S.C. 1232g(a)(1)(A), (B); 34 C.F.R. 99.10(a). **Consult the board attorney for guidance.**

Allowing students to grade each other's papers does not violate FERPA; such student work is not a *school record* until it is recorded by the teacher. Qwasso I.S.D. No. 1-011 v. Falvo, 534 U.S. 426 (2002). School student records are *per se* prohibited from disclosure; a district is under no obligation to redact them. Chicago Tribune Co. v. Chicago Bd. of Educ., 332 Ill.App.3d 60 (1st Dist. 2002).

³ 20 U.S.C. §1232g(a)(4); 34 C.F.R. §99.3; 105 ILCS 10/2(d); 705 ILCS 405/1-7 and 5-905; 23 Ill.Admin.Code §375.10. Rather than listing the exceptions in the policy, a school board may choose to end the sentence after the proviso "except as provided in State or federal law."

⁴ For a helpful resource, see fn 1 in policy 7:150, *Agency and Police Interviews*.

⁵ For an explanation, see footnotes in policy 7:220, *Bus Conduct*.

⁶ Many lawyers believe that once these records are received by a school, they are protected as *education records* under FERPA. Consult the board attorney for advice.

⁷ 105 ILCS 10/5(a).

105 ILCS 10/5(c), amended by P.A. 100-532, requires that a parent's or student's request to inspect and copy records be granted no later than 10 business days (previously 15 school days) after the date of receipt of such a request by the official records custodian.

105 ILCS 10/5(c-5), added by P.A. 100-532, outlines how a school district may extend the timeline for response by not more than five business days from the original due date if one or more of these six reasons applies:

1. The requested records are stored in whole or in part at other locations than the office having charge of the requested records;
2. The request required the collection of a substantial number of specified records;
3. The request is couched in categorical terms and requires an extensive search for the records responsive to it;
4. The requested records have not been located in the course of routine search and additional efforts are being made to locate them;
5. The request for records cannot be complied with by the school district within the time limits prescribed by subsection (c) without unduly burdening or interfering with the operations of the school district; or
6. There is a need for consultation, which shall be conducted with all practicable speed, with another public body or school district among two or more components of a public body or school district having a substantial interest in the determination or in the subject matter of the request.

records shall be kept current, accurate, clear, and relevant. All information maintained concerning a student receiving special education services shall be directly related to the provision of services to that child.⁹ The District may release directory information as permitted by law, but a parent/guardian shall have the right to opt-out of the release of directory information regarding his or her child.¹⁰ However, the District will comply with an *ex parte* court order requiring it to permit the U.S. Attorney General or designee to have access to a student's school records without notice to, or the consent of, the student's parent/guardian.¹¹ Upon request, the District discloses school student records without parent consent to the official records custodian of another school in which a student has enrolled or intends to enroll, as well as to any other person as specifically required or permitted by State or federal law. ¹²

The Superintendent shall fully implement this policy and designate an *official records custodian* for each school who shall maintain and protect the confidentiality of school student records, inform staff

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The person making the request and the school district may also agree in writing to extend the timeline for compliance for a period to be determined by the parties. *Id.*

8 23 Ill.Admin.Code §375.10 provides that districts may, through board policy, allow scores received on college entrance examinations to be included on a student's academic transcript if that inclusion is requested in writing by a student, parent or person who enrolled the student. If the board of a unit or high school district wants to allow this, insert:

A student or the student's parent/guardian may request, in writing, that scores received on college entrance examinations be included on the student's academic transcript.

Note: Though 23 Ill.Admin.Code §375.10 uses the phrase "student, parent or person who enrolled the student," student records rights under ISSRA and FERPA attach to *eligible students* and their parents/guardians, not to "a person who enrolled the student" (though that person is typically a parent or guardian).

If a board allows for the inclusion of college entrance examination scores on academic transcripts, amend the district's notification to parents/guardians and students of their school student records rights with the process for requesting the inclusion. 23 Ill.Admin.Code §375.30(d)(5). See 7:340-API, E1, *Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records*, for an example.

9 23 Ill.Admin.Code §226.740(a).

10 This sentence is required if the board allows schools to release student directory information. 20 U.S.C. §1232g; 23 Ill.Admin.Code §375.80; 34 C.F.R. §99.37. There is at least one instance in Illinois in which parents were upset that their school district released students' names and addresses pursuant to a Freedom of Information Act (FOIA) request. FOIA contains an exemption for home addresses. Many lawyers, however, say that a district must release student information pursuant to a FOIA request when each of the following has occurred: the FOIA request seeks information that is included in the district's definition of student directory information, the district notified parents that it releases directory information, and the parents did not opt out of allowing directory information to be released concerning their child. An opinion from the Ill. Public Access Counselor supports that a district may not rely on the FOIA exemption for home addresses. PAO 12-3.

The **PRESS** policy does not identify the components of *directory information*, leaving that task to implementing material. Boards may want to discuss this quagmire with the superintendent knowing that there are good reasons to release directory information, e.g., to allow the district to publish information about specific students, and good reasons to not release directory information, e.g., to avoid releasing names and addresses pursuant to a FOIA request.

23 Ill.Admin.Code §375.80(a)(1) no longer includes *gender* as information which may be designated as directory information. This is consistent with attorneys' views that Illinois' past practice of including *gender* within directory information may have violated FERPA. FERPA regulations provide that directory information "means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed" and it "includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended." 34 C.F.R. §99.3. Though FERPA regulations do not explicitly preclude the designation of *gender* as directory information, DOE guidance has consistently advised schools not to disclose a student's sex as directory information because it would be considered harmful or an invasion of privacy. See *Letter to Institutions of Postsecondary Education*, DOE Family Policy Compliance Office (September 2009). Consult the board attorney about the practical implementation of this issue. Some attorneys, for example, believe photos of the "Girls Volleyball Team" may contradict DOE guidance.

11 20 U.S.C. §1232(g)(j), as added by Sec. 507 of the U.S.A. Patriot Act of 2001.

12 34 C.F.R. §99.31; 105 ILCS 10/6.

members of this policy, and inform students and their parents/guardians of their rights regarding school student records. ¹³

Student Biometric Information Collection ¹⁴

The Superintendent or designee may recommend a student biometric information collection system solely for the purposes of identification and fraud prevention.¹⁵ Such recommendation shall be consistent with budget requirements and in compliance with State law. Biometric information means any information that is collected through an identification process for individuals based on their unique behavioral or physiological characteristics, including fingerprint, hand geometry, voice, or facial recognition or iris or retinal scans.

Before collecting student biometric information, the District shall obtain written permission from the person having legal custody/parental responsibility¹⁶ or the student (if over the age of 18).¹⁷ Upon a student's 18th birthday, the District shall obtain written permission from the student to collect student biometric information.¹⁸ Failure to provide written consent to collect biometric information shall not be the basis for refusal of any services otherwise available to a student.

All collected biometric information shall be stored and transmitted in a manner that protects it from disclosure. Sale, lease, or other disclosure of biometric information to another person or entity is strictly prohibited. ¹⁹

The District will discontinue use of a student's biometric information and destroy all collected biometric information within 30 days after: (1) the student graduates or withdraws from the School District, or (2) the District receives a written request to discontinue use of biometric information from

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¹³ Each school must have an *official records custodian*. 105 ILCS 10/4(a). Districts must notify students and parents/guardians of their rights concerning school student records. 105 ILCS 10/3; 105 ILCS 10/4, amended by P.A. 101-161; 23 Ill.Admin.Code §375.30; 34 C.F.R. §99.7. Comprehensive faculty and student handbooks can provide required notices, along with other important information, to recipients. Handbooks can be developed by the building principal, but should be reviewed and approved by the superintendent and board. See 7:340-API, E1, *Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records*, and 7:340-API, *School Student Records*.

¹⁴ This program is optional; however, districts either wishing to implement such a program or districts that have already engaged in the collection of student biometric information must have a policy consistent with the requirements of 105 ILCS 5/10-20.40. This section restates the School Code's requirements for a student biometric information policy.

¹⁵ For districts already collecting biometric information, the following is an alternative:

The Superintendent or designee shall maintain a biometric screening program that is consistent with budget requirements and in compliance with State law.

¹⁶ Several statutes define legal custody and when a court may grant it; the term requires statutory construction/interpretation and school boards should discuss this issue with their attorney prior to adopting a policy on collection of student biometric information.

105 ILCS 5/10-20.40(b)(1) states the definition of legal custody is the same as the definition of legal custody for purposes of residency, payment of tuition, hearings, and criminal penalties at 105 ILCS 5/10-20.12b(2)(i)-(v).

The IMDMA, 750 ILCS 5/, changed the terms *custody* and *visitation* to *parental responsibility* and *parenting time*, respectively. It also requires a *parenting plan* that allocates: (1) significant decision-making responsibilities; and (2) each parent's right to access his or her child's school records. The new law does not amend ISSRA or the School Code.

¹⁷ Based upon 105 ILCS 5/10-20.40, written permission is not required annually; it is valid until a request for discontinuation of the use of biometric information is received or until the student reaches the age of 18. See 7:340-API, E5, *Biometric Information Collection Authorization*.

¹⁸ Districts must reissue 7:340-API, E5, *Biometric Information Collection Authorization* to students turning 18 years of age during the school year. This is because all rights and privileges accorded to a parent under ISSRA become exclusively those of the student upon his or her 18th birthday, graduation from secondary school, marriage, or entry into military service, whichever comes first. 105 ILCS 10/2(g).

¹⁹ State law contains two exceptions: (1) the individual who has legal custody/parental responsibility of the student or the student (if over the age of 18) consents to the disclosure; and (2) the disclosure is required by court order. 105 ILCS 10-20.40(b)(5).

the person having legal custody/parental responsibility of the student or the student (if over the age of 18).²⁰ Requests to discontinue using a student's biometric information shall be forwarded to the Superintendent or designee.

The Superintendent or designee shall develop procedures to implement this policy consistent with State and federal law. ²¹

- LEGAL REF.: 20 U.S.C. §1232g, Family Educational Rights and Privacy Act, implemented by 34 C.F.R. Part 99.
50 ILCS 205/7.
105 ILCS 5/10-20.21b, 5/20.37, 5/20.40, and 5/14-1.01 et seq.
105 ILCS 10/, Ill. School Student Records Act.
105 ILCS 85/, Student Online Personal Protection Act.
325 ILCS 17/, Children's Privacy Protection and Parental Empowerment Act.
750 ILCS 5/602.11, Ill. Marriage and Dissolution of Marriage Act.
23 Ill.Admin.Code Parts 226 and 375.
Owasso I.S.D. No. I-011 v. Falvo, 534 U.S. 426 (2002).
Chicago Tribune Co. v. Chicago Bd. of Ed., 332 Ill.App.3d 60 (1st Dist. 2002).
- CROSS REF.: 5:100 (Staff Development Program), 5:130 (Responsibilities Concerning Internal Information), 7:15 (Student and Family Privacy Rights), 7:220 (Bus Conduct), 7:345 (Use of Educational Technologies; Student Data Privacy and Security)
- ADMIN. PROC.: 7:15-E (Notification to Parents of Family Privacy Rights), 7:340-AP1 (School Student Records), 7:340-AP1, E1 (Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records), 7:340-AP1, E3 (Letter to Parents and Eligible Students Concerning Military Recruiters and Postsecondary Institutions Receiving Student Directory Information), 7:340-AP1, E4 (Frequently Asked Questions Regarding Military Recruiter Access to Students and Student Information, 7:340-AP1, E5 (Biometric Information Collection Authorization), 7:340-AP2 (Storage and Destruction of School Student Records), 7:340-AP2, E1 (Letter Containing Schedule for Destruction of School Student Records)

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²⁰ 105 ILCS 5/10-20.40(d). No notification to or approval from the district's local records commission, pursuant to the Local Records Act, is required to destroy student biometric information. See f/n 15 for a discussion about the terms *custody* and *parental responsibility*.

²¹ Whether the student biometric information is an education record under FERPA or falls under an exception to an education record under FERPA is an issue about which school boards should consult their board attorney. Protected Health Information under the DHS's interpretations of HIPAA excludes education records covered by FERPA, and thus HIPAA requirements are not expected to be triggered by districts collecting student biometric information. However, before implementing policies and procedures to collect student biometric information, a board should discuss these issues with the board attorney.

Students

Exhibit - Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records ¹

Upon the initial enrollment or transfer of a student to the school, the school must notify the student and the student's parents/guardians of their rights concerning school student records. This notification may be distributed by any means likely to reach parents/guardians.

The contact information for each School's Official Records Custodian follows:

This notice contains a description of your and your child's rights concerning school student records. A *school student record* is any writing or other recorded information concerning a student and by which a student may be individually identified that is maintained by a school or at its direction or by a school employee, regardless of how or where the information is stored, except for certain records kept in a staff member's sole possession; records maintained by law enforcement officers working in the school; video and other electronic recordings that are created in part for law enforcement, security, or safety reasons or purposes; and electronic recordings made on school buses. The District maintains two types of school records for each student: *permanent* record and *temporary* record.

The *permanent record* includes:

1. Basic identifying information, including the student's name and address, birth date and place, gender, and the names and addresses of the student's parents/guardians.
2. Evidence required under the Missing Children Records Act. 325 ILCS 50/5(b)(1).
3. Academic transcripts, including: grades graduation date, and grade level achieved;² the unique student identifier assigned and used by the Ill. State Board of Education Student

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¹ This notification is based on the *Model Notification* published by the U.S. Dept. of Education. Changes were made to comply with the Ill. School Student Records Act (ISSRA, 105 ILCS 10/) and the ISBE rule mandating this notification (23 Ill.Admin.Code §375.30(d)). To obtain the legal citations for this exhibit's provisions, see 7:340-API, *School Student Records*, which is annotated with citations to controlling rules and statutes.

Customize this notice to reflect the district's practice, particularly to specify the district's treatment of records that the law: (1) permits to be kept as either permanent records or temporary records; and (2) allows to be kept as directory information.

² 23 Ill.Admin.Code §375.10 provides that districts may, through board policy, allow scores received on college entrance examinations to be included on a student's academic transcript if that inclusion is requested in writing by a student, parent or person who enrolled the student. If the board allows written requests to include college entrance examination scores on students' transcripts, insert the following phrase into #3:

scores received on college entrance examinations if that inclusion is requested in writing by an eligible student or the student's parent/guardian;

Note: Though 23 Ill.Admin.Code §375.10 uses the phrase "student, parent or person who enrolled the student," student records rights under ISSRA and the federal Family Educational Rights and Privacy Act (FERPA, 20 U.S.C. 1232g) attach to *eligible students* and their parents/guardians, not to "a person who enrolled the student" (though that person is typically a parent or guardian).

Information System (SIS); as applicable, designation of an Advanced Placement computer science course as a mathematics-based, quantitative course for purposes of meeting State graduation requirements set forth in 105 ILCS 5/27-22; as applicable, designation of the student's achievement of the State Seal of Biliteracy, awarded in accordance with 105 ILCS 5/2-3.159; as applicable, designation of the student's achievement of the State Commendation Toward Biliteracy; and as applicable, designation of the student's achievement of the Global Scholar Certification, awarded in accordance with 105 ILCS 5/2-3.169.

4. Attendance record.
5. Health record defined by the Ill. State Board of Education (ISBE) as "medical documentation necessary for enrollment and proof of dental examinations, as may be required under Section 27-8.1 of the School Code."
6. Record of release of permanent record information that includes each of the following:
 - a. The nature and substance of the information released;
 - b. The name and signature of the official records custodian releasing such information;
 - c. The name and capacity of the requesting person and the purpose for the request;
 - d. The date of release; and
 - e. A copy of any consent to a release.
7. Scores received on all State assessment tests administered at the high school level (that is, grades 9 through 12). 105 ILCS 5/2-3.64a-5.

If not maintained in the *temporary record*, the *permanent record* may include:

1. Honors and awards received.
2. Information concerning participation in school-sponsored activities or athletics, or offices held in school-sponsored organizations.

All information not required to be kept in the student permanent record is kept in the student *temporary record* and must include:

1. Record of release of temporary record information that includes the same information as listed above for the record of release of permanent records.
2. Scores received on the State assessment tests administered in the elementary grade levels (that is, kindergarten through grade 8).
3. Completed home language survey.
4. Information regarding serious disciplinary infractions (that is, those involving drugs, weapons, or bodily harm to another) that resulted in expulsion, suspension, or the imposition of punishment or sanction.
5. Any final finding report received from a Child Protective Service Unit provided to the school under the Abused and Neglected Child Reporting Act; no report other than what is required under Section 8.6 of that Act (325 ILCS 5/8.6) shall be placed in the student record.
6. Health-related information, defined by the ISBE as "current documentation of a student's health information, not otherwise governed by the Mental Health and Developmental Disabilities Confidentiality Act or other privacy laws, which includes identifying information, health history, results of mandated testing and screenings, medication dispensation records and logs, e.g., glucose readings, long-term medications administered during school hours, and other health-related information that is relevant to school

participation, e.g., nursing services plan, failed screenings, yearly sports physical exams, interim health histories for sports.”

7. Accident report, defined by the ISBE as “documentation of any reportable student accident that results in an injury to a student, occurring on the way to or from school or on school grounds, at a school athletic event or when a student is participating in a school program or school-sponsored activity or on a school bus and that is severe enough to cause the student not to be in attendance for one-half day or more or requires medical treatment other than first aid. The accident report shall include identifying information, nature of injury, days lost, cause of injury, location of accident, medical treatment given to the student at the time of the accident, or whether the school nurse has referred the student for a medical evaluation, regardless of whether the parent, guardian or student (if 18 years or older) or an unaccompanied homeless youth ... has followed through on that request.”
8. Any documentation of a student’s transfer, including records indicating the school or school district to which the student transferred.
9. Completed course substitution form for any student who, when under the age of 18, is enrolled in vocational and technical course as a substitute for a high school or graduation requirement.
10. Information contained in related service logs maintained by the District for a student with an individualized education program under 105 ILCS 5/14-8.02f(d).³

The temporary record may include:

1. Family background information
2. Intelligence test scores, group and individual
3. Aptitude test scores
4. Reports of psychological evaluations, including information on intelligence, personality and academic information obtained through test administration, observation, or interviews
5. Elementary and secondary achievement level test results
6. Participation in extracurricular activities, including any offices held in school-sponsored clubs or organizations
7. Honors and awards received
8. Teacher anecdotal records
9. Other disciplinary information
10. Special education records
11. Records associated with plans developed under section 504 of the Rehabilitation Act of 1973
12. Verified reports or information from non-educational persons, agencies, or organizations of clear relevance to the student’s education

The Family Educational Rights and Privacy Act (FERPA) and the Ill. School Student Records Act (ISSRA) afford parents/guardians and students over 18 years of age (*eligible students*) certain rights with respect to the student’s school records. They are:

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³ 105 ILCS 10/2(f), amended by P.A. 101-515.

1. The right to inspect and copy the student's education records within 10 business days after the date the District receives a request for access.

The degree of access a student has to his or her records depends on the student's age. Students less than 18 years of age have the right to inspect and copy only their permanent record. Students 18 years of age or older have access and copy rights to both permanent and temporary records. Parents/guardians or students should submit to the Building Principal (or appropriate school official) a written request that identifies the record(s) they wish to inspect. The Principal will make arrangements for access and notify the parent(s)/guardian(s) or student of the time and place where the records may be inspected. The District may extend the response timeline to 15 business days in accordance with ISSRA. The District charges \$.35 per page for copying but no one will be denied their right to copies of their records for inability to pay this cost.

These rights are denied to any person against whom an order of protection has been entered concerning a student. 105 ILCS 5/10-22.3c and 10/5a; 750 ILCS 60/214(b)(15).⁴

2. The right to request the amendment of the student's education records that the parent(s)/guardian(s) or eligible student believes are inaccurate, irrelevant, or improper.

Parents/guardians or eligible students may ask the District to amend a record that they believe is inaccurate, irrelevant, or improper. They should write the Building Principal or the Official Records Custodian, clearly identify the record they want changed, and specify the reason.

If the District decides not to amend the record as requested by the parents/guardians or eligible student, the District will notify the parents/guardians or eligible student of the decision and advise him or her of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the parent(s)/guardian(s) or eligible student when notified of the right to a hearing.

3. The right to permit disclosure of personally identifiable information contained in the student's education records, except to the extent that the FERPA or ISSRA authorizes disclosure without consent.

Disclosure without consent is permitted to school officials with legitimate educational or administrative interests. A school official is a person employed by the District as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the School Board. A school official

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⁴ 23 Ill.Admin.Code §375.10 provides that districts may, through board policy, allow scores received on college entrance examinations to be included on a student's academic transcript if that inclusion is requested in writing by a student, parent or person who enrolled the student. If the board allows written requests to include college entrance examination scores on students' transcripts, insert the following as right #2:

2. The right to have one or more scores received on college entrance examinations included on the student's academic transcript.

Parents/guardians or eligible students may have one or more scores on college entrance exams included on their student's academic transcript. Students often take college entrance examinations multiple times to improve their results. Test publishers provide the results from each examination taken to the student's high school. A parent/guardian or eligible student may want certain scores to be included on academic transcripts sent to postsecondary institutions to which the student applies. The District will include scores on college entrance examinations upon the written request of the parent/guardian or eligible student stating the name of each college entrance examination that is the subject of the request and the dates of the scores that are to be included.

Note: Though 23 Ill.Admin.Code §375.10 uses the phrase "student, parent or person who enrolled the student," student records rights under ISSRA and FERPA attach to *eligible students* and their parents/guardians, not to "a person who enrolled the student" (though that person is typically a parent or guardian).

may also include a volunteer, contractor, or consultant who, while not employed by the school, performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of personally identifiable information from education records (such as an attorney, auditor, medical consultant, therapist, or educational technology vendor); or any parents/guardians or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. Individual board members do not have a right to see student records merely by virtue of their office unless they have a current demonstrable educational or administrative interest in the student and seeing his or her record(s) would be in furtherance of the interest.

A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility or contractual obligations with the District.

Upon request, the District discloses education records without consent to officials of another school district in which a student has enrolled or intends to enroll, as well as to any person as specifically required by State or federal law. Before information is released to these individuals, the parents/guardians will receive prior written notice of the nature and substance of the information, and an opportunity to inspect, copy, and challenge such records.

When a challenge is made at the time the student's records are being forwarded to another school to which the student is transferring, there is no right to challenge: (1) academic grades, or (2) references to expulsions or out-of-school suspensions.

Disclosure is also permitted without consent to: any person for research, statistical reporting or planning, provided that no student or parent(s)/guardian(s) can be identified; any person named in a court order; appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or other persons; and juvenile authorities when necessary for the discharge of their official duties who request information before adjudication of the student.

4. The right to a copy of any school student record proposed to be destroyed or deleted.

The permanent record is maintained for at least 60 years after the student transfers, graduates, or permanently withdraws. The temporary record is maintained for at least five years after the student transfers, graduates, or permanently withdraws. Temporary records that may be of assistance to a student with a disability who graduates or permanently withdraws, may, after five years, be transferred to the parent(s)/guardian(s) or to the student, if the student has succeeded to the rights of the parent(s)/guardian(s). Student temporary records are reviewed every four years or upon a student's change in attendance centers, whichever occurs first.

5. The right to prohibit the release of directory information concerning the parent's/guardian's child. ⁵

Throughout the school year, the District may release directory information regarding its students, limited to:

- Name
- Address
- Grade level
- Birth date and place

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

⁵ Districts are not required to identify and release directory information. **Be sure that the board policy provides for the release of directory information before including this right.** See 7:340, *Student Records*.

Parent(s)/guardian(s) names, addresses, electronic mail addresses, and telephone numbers
Photographs, videos, or digital images used for informational or news-related purposes
(whether by a media outlet or by the school) of a student participating in school or
school-sponsored activities, organizations, and athletics that have appeared in school
publications, such as yearbooks, newspapers, or sporting or fine arts programs
Academic awards, degrees, and honors
Information in relation to school-sponsored activities, organizations, and athletics
Major field of study
Period of attendance in school

Any parent/guardian or eligible student may prohibit the release of any or all of the above information by delivering a written objection to the Building Principal within 30 days of the date of this notice. No directory information will be released within this time period, unless the parent/guardian or eligible student is specifically informed otherwise.

No photograph highlighting individual faces is allowed for commercial purposes, including solicitation, advertising, promotion or fundraising without the prior, specific, dated and written consent of the parent or student, as applicable; and no image on a school security video recording shall be designated as directory information.

6. The right to request that military recruiters or institutions of higher learning not be granted access to your secondary school student's name, address, and telephone numbers without your prior written consent.

Federal law requires a secondary school to grant military recruiters and institutions of higher learning, upon their request, access to secondary school students' names, addresses, and telephone numbers, unless the student's parent/guardian, or a student who is 18 years of age or older, submits a written request that the information not be released without the prior written consent of the parent/guardian or eligible student. If you wish to exercise this option, notify the Building Principal where your student is enrolled for further instructions.

7. The right contained in this statement: No person may condition the granting or withholding of any right, privilege or benefits or make as a condition of employment, credit, or insurance the securing by any individual of any information from a student's temporary record which such individual may obtain through the exercise of any right secured under State law.

8. The right to file a complaint with the U.S. Dept. of Education concerning alleged failures by the District to comply with the requirements of FERPA.

The name and address of the Office that administers FERPA is:

U.S. Department of Education
Student Privacy Policy Office
400 Maryland Avenue, SW
Washington DC 20202-8520

Students

Use of Educational Technologies; Student Data Privacy and Security 1

Educational technologies used in the District shall further the objectives of the District's educational program, as set forth in Board policy 6:10, *Educational Philosophy and Objectives*, align with the curriculum criteria in policy 6:40, *Curriculum Development*, and/or support efficient District operations. The Superintendent shall ensure that the use of educational technologies in the District meets the above criteria.

The District and/or vendors under its control may need to collect and maintain data that personally identifies students in order to use certain educational technologies for the benefit of student learning or District operations.

Federal and State law govern the protection of student data, including school student records and/or *covered information*.² The sale, rental, lease, or trading of any school student records or covered information by the District is prohibited.³ Protecting such information is important for legal compliance, District operations, and maintaining the trust of District stakeholders, including parents, students and staff. ⁴

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

¹ The Student Online Personal Protection Act (SOPPA) (105 ILCS 85/), amended by P.A. 101-516, eff. 7-1-21, controls the content of this policy. SOPPA specifically requires boards to adopt a policy for designating which district employees are authorized to enter into agreements with *operators* (see **Operator Contracts** subhead). SOPPA is the State law that governs how educational technology companies, schools, and the Ill. State Board of Education (ISBE) use and protect *covered information* of students. The amendments to SOPPA were intended to strengthen protections for online student data, in part by centralizing the vetting and contracting process within schools, and to give parents ready access to information about how their children's data is being used at school. SOPPA does not, however, require a district to obtain parent opt-in or separate consent for the use of online services or applications, nor is such consent required if the operator is acting as a *school official* pursuant to the delineated exception in the Family Educational Rights and Privacy Act's (FERPA)(20 U.S.C. §1232g) implementing regulations. See 34 C.F.R. §99.3(a).

² See policy 7:340, *Student Records*, and its implementing administrative procedure, 7:340-AP1, *School Student Records*, for requirements addressing school student records under federal and State law. SOPPA does not override or otherwise supersede the requirements of FERPA or the Ill. School Student Records Act (ISSRA) (105 ILCS 10/). 105 ILCS 85/30(9), amended by P.A. 101-516, eff. 7-1-21.

Covered information is a broader concept than student records, and may include information that does not qualify as a student record. However, even if the covered information is not maintained as a student record, it may still qualify as a *public record* under the Local Records Act (50 ILCS 205/), such that a district would have an obligation to maintain it. Consult the board attorney for guidance on these issues.

³ 105 ILCS 85/26(1), added by P.A. 101-516, eff. 7-1-21. SOPPA includes a clarification that schools and operators are not prohibited from producing and distributing, free or for consideration, student class photos and yearbooks to the school, students, parents, or others authorized by parents, as long as there is a written agreement between the operator and district. 105 ILCS 85/30(10), amended by P.A. 101-516, eff. 7-1-21.

⁴ SOPPA permits, but does not require, districts to designate an appropriate staff person as a Privacy Officer, who may also be an official records custodian under ISSRA, to carry out the duties and responsibilities assigned to schools and to ensure a district's compliance with the requirements of SOPPA. 105 ILCS 85/27(f), added by P.A. 101-516, eff. 7-1-21. For boards that wish to designate a Privacy Officer, add the below sentence to the end of the paragraph. Boards may designate an individual other than the Superintendent to serve in the capacity of Privacy Officer, such as a Business Manager, IT Director, or District Records Custodian.

The Board designates the Superintendent to serve as Privacy Officer, who shall ensure the District complies with the duties and responsibilities required of it under the Student Online Personal Protection Act, 105 ILCS 85/, amended by P.A. 101-516, eff. 7-1-21.

Definitions 5

Covered information means personally identifiable information (PII) or information linked to PII in any media or format that is not publicly available and is any of the following: (1) created by or provided to an operator by a student or the student's parent/guardian in the course of the student's or parent/guardian's use of the operator's site, service or application; (2) created by or provided to an operator by an employee or agent of the District; or (3) gathered by an operator through the operation of its site, service, or application.

Operators are entities (such as educational technology vendors) that operate Internet websites, online services, online applications, or mobile applications that are designed, marketed, and primarily used for K-12 school purposes. 6

Breach means the unauthorized acquisition of computerized data that compromises the security, confidentiality or integrity of covered information maintained by an operator or the District. 7

Operator Contracts

The Superintendent or designee designates which District employees are authorized to enter into written agreements with operators for those contracts that do not require separate Board approval.⁸ Contracts between the Board and operators shall be entered into in accordance with State law and Board policy 4:60, *Purchases and Contracts*, and shall include any specific provisions required by State law. 9

Security Standards

The Superintendent or designee shall ensure the District implements and maintains reasonable security procedures and practices that otherwise meet or exceed industry standards designed to protect covered information from unauthorized access, destruction, use, modification, or disclosure.¹⁰ In the event the District receives notice from an operator of a breach or has determined a breach has

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5 105 ILCS 85/5, amended by P.A. 101-516, eff. 7-1-21. See f/n 3 above for more discussion about *covered information*.

6 SOPPA specifically provides that it does not apply to general audience websites, online services, online applications, or mobile applications, even if login credentials are required to access the general audience sites, services, or applications. 105 ILCS 85/30(3), amended by P.A. 101-516, eff. 7-1-21. Consult the board attorney for guidance regarding whether certain applications that may be widely used by schools, but which may not have been originally marketed to K-12 (e.g., certain video conference applications), come within the scope of SOPPA.

7 Operators must notify districts of a breach of covered information within the most expedient time possible and without reasonable delay, but no later than 30 calendar days after the determination that a breach has occurred. 105 ILCS 85/15(5), added by P.A. 101-516, eff. 7-1-21.

8 This statement is required by 105 ILCS 85/27(b), added by P.A. 101-516, eff. 7-1-21. SOPPA provides that any agreement entered into in violation of SOPPA "is void and unenforceable as against public policy." *Id.* SOPPA does not provide for a private right of action against school districts; the Ill. Attorney General has enforcement authority under SOPPA through the Consumer Fraud Deceptive Trade Practices Act. 105 ILCS 85/35.

9 SOPPA requires specific provisions be included in a contract with any operator that seeks to receive covered information from a school district. 105 ILCS 85/15(4), added by P.A. 101-516, eff. 7-1-21. See 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*, for details.

10 105 ILCS 85/27(e), added by P.A. 101-516, eff. 7-1-21. SOPPA does not provide specifics regarding security procedures or practices, nor is there a formal, nationalized standard specific to K-12. However, SOPPA requires ISBE to make available on its website guidance for schools pertaining to reasonable security procedures and practices. 105 ILCS 85/28, added by P.A. 101-516, eff. 7-1-21. ISBE, the U.S. Dept. of Education (DOE) and other experts in the field agree that training of all staff with access to a school's network is important to protecting schools against cyber threats, although such training is not currently mandated in Illinois. ISBE's grant-funded program, the Learning Technology Center of Illinois, offers cybersecurity training to administrators and educators throughout the State. See www.ltc.org. The U.S. Dept. of Education has also issued multiple guidance documents on security best practices for schools, available at www.studentprivacy.ed.gov/topic/security-best-practices.

occurred, the Superintendent or designee shall also ensure that the District provides any breach notifications required by State law. **11**

LEGAL REF.: 20 U.S.C. §1232g, Family and Educational Rights and Privacy Act, implemented by 34 C.F.R. Part 99.
105 ILCS 10/, Ill. School Student Records Act.
105 ILCS 85/, Student Online Personal Protection Act.

CROSS REF.: 4:15 (Identity Protection), 4:60 (Purchases and Contracts), 6:235 (Access to Electronic Networks), 7:340 (Student Records)

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

11 In the event of a breach of covered information of students, SOPPA requires school districts to provide two types of notices: (1) individual notices to the parents of students whose covered information was involved in the breach and (2) a more general notice about the breach on the district's website (or at the district administrative office, if it does not maintain a website) if the breach involved 10% or more of the district's student enrollment. 105 ILCS 85/27(a)(5) & (d), added by P.A. 101-516, eff. 7-1-21. See 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*, for details about the required notices.

Students

Administrative Procedure – Use of Educational Technologies; Student Data Privacy and Security

Use this procedure to establish a process for evaluating the use of educational technologies for student learning and/or District operations, and to facilitate compliance with the Student Online Personal Protection Act (SOPPA), amended by P.A. 101-516, eff. 7-1-21.

Definitions (105 ILCS 85/5, amended by P.A. 101-516, eff. 7-1-21)

Covered information means personally identifiable information (PII) or information linked to PII in any media or format that is not publicly available and is any of the following: (1) created by or provided to an operator by a student or the student’s parent/guardian in the course of the student’s or parent/guardian’s use of the operator’s site, service or application; (2) created by or provided to an operator by an employee or agent of the District; or (3) gathered by an operator through the operation of its site, service, or application.

Operators are entities (such as educational technology vendors) that operate Internet websites, online services, online applications, or mobile applications that are designed, marketed, and primarily used for K-12 school purposes.

K-12 school purposes means purposes that are directed by, or that customarily take place at the direction of, a teacher, school, or school district; aid in the administration of school activities, including, but not limited to, instruction in the classroom or at home, administrative activities, and collaboration between students, school personnel, or parents; or are otherwise for the use and benefit of a school.

Breach means the unauthorized acquisition of computerized data that compromises the security, confidentiality or integrity of covered information maintained by an operator or the District.

Parent means a person who is the natural parent of the student or other person who has the primary responsibility for the care and upbringing of the student.

Educational Technologies Evaluation and SOPPA Implementation

Actor	Action
Superintendent or Designee or Privacy Officer	1. Establishes an Educational Technology Committee (Ed Tech Committee) to operate as a Superintendent committee for the purposes of: (1) evaluating the use of specific online applications and other educational technologies within the District, (2) establishing a list of applications or other services approved for use within the District, and (3) developing a process for the approval of online sites, applications, or services not already approved for District use which staff members may wish to use. See 2:150-AP, <i>Superintendent Committees</i> . Consider including: Head of Information Technology (IT) Other district-level administrators, such as Curriculum Director, Student Services Director, Business Manager Building Principals

Actor	Action
	<p style="text-align: center;">Teachers</p> <p>Note: This procedure establishes an administrative committee. The administrative committee centralizes the local decision-making process regarding the use of educational technologies in a district, which in turn should help districts comply with the provisions of SOPPA governing the use of covered information by operators, contractual requirements, and security standards.</p> <ol style="list-style-type: none"> 2. Informs the School Board of the Ed Tech Committee’s progress. 3. Makes recommendations to the Board about operator contracts, as needed and in alignment with Board policy 7:345, <i>Use of Educational Technologies; Student Data Privacy and Security</i>. 4. Designates which District employee(s) are authorized to enter into written agreements with operators when prior board approval of the contract is not otherwise required by Board policy 4:60, <i>Purchases and Contracts</i>, and list them below: <ul style="list-style-type: none"> _____ Title _____ Title 5. Assigns the following activities to the Head of IT and the Records Custodian: <ol style="list-style-type: none"> a. Develop and maintain a protocol to manage parent requests for copies (electronic and paper) of students’ covered information. b. Develop and maintain a protocol to manage parent requests for corrections to factual inaccuracies contained in a student’s covered information. c. Develop and maintain a protocol to manage parent requests for deletion of a student’s covered information maintained by an operator. 6. Ensures that the parent of any student whose covered information was involved in a breach is provided with a breach notification letter no later than 30 calendar days after the District determines a breach has occurred or has been notified by an operator of a breach, unless an appropriate law enforcement agency has requested in writing that the District not provide breach notifications because doing so would interfere with a criminal investigation. See 7:345-AP, E3, <i>Parent Notification Letter for Student Data Breach</i>.

Actor	Action
	<p>7. As appropriate, notifies the District’s liability carrier of any third party claims made against the District regarding a data breach.</p> <p>8. Consults with the Board Attorney for guidance as needed to ensure the District complies with the provisions of SOPPA.</p>
Head of IT or Privacy Officer	<p>1. Implements and maintains reasonable cybersecurity practices to protect covered information, such as technical, administrative, and physical safeguards that are consistent with any guidance from the Ill. State Board of Education (ISBE)¹ and 6:235-AP1, <i>Acceptable use of the District’s Electronic Networks</i>. Coordinates with the Superintendent to implement any staff training on such practices. Coordinates with the Business Manager regarding any recommendations for purchases of equipment or software related to cybersecurity.</p> <p>2. Creates, maintains, and regularly updates an internal inventory of all Internet websites, online services, online applications, and mobile applications that are being used in the District for K-12 purposes. Note: The inventory does not need to include general audience websites, online services, online applications, or mobile applications, even if login credentials are required to access the general audience sites, services, or applications.</p> <p>The inventory list should include the following, and any other information deemed pertinent: ²</p> <ul style="list-style-type: none"> a. Name of Operator b. Contract term and expiration/renewal date c. K-12 purpose for which the online service, application, etc. is being used (e.g., curriculum content area and grade level(s)) d. A listing of the <i>data elements</i>³ of covered information that the District collects, maintains, or discloses to the operator. e. A layperson explanation of the data elements listed for each operator including how the district uses the information, to whom or what entities it discloses the information, and for what purpose(s) the information is used. <p>3. Ensures the following information is posted on the District’s website⁴ and updated (if needed) by Jan. 1 and July 1 each year (105 ILCS</p>

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¹ 105 ILCS 85/27, added by P.A. 101-516, eff. 7-1-21, requires the Ill. State Board of Education to make available on its website a guidance document for schools pertaining to reasonable security procedures and practices.

² Creating an internal inventory list as an initial step is a best practice to ensure a district complies with the posting requirements in item #3 in this row.

³ The term data elements is not defined in the Student Online Personal Protection Act (SOPPA) (105 ILCS 85/). However, compare that term with the requirement in SOPPA that operator contracts include “a listing of the categories or types of covered information to be provided to the operator,” which suggests that data elements is a term that is different than and distinguishable from categories or types. Consult the board attorney for guidance on the level of detail to include in the posting of data elements.

Actor	Action
	<p>85/27(a), added by P.A. 101-516, eff. 7-1-21) (See 7:345-AP, E1, <i>Student Covered Information Reporting Form</i>):</p> <ol style="list-style-type: none"> a. A list of operators with which the District has written contracts. 105 ILCS 85/27(a)(2). b. Copies of the District’s written contracts with operators, with redactions as permitted by State law and mutually agreed upon between the District and operators. 105 ILCS 85/27(a)(2). c. Business address of each operator. 105 ILCS 85/27(a)(2). d. For each operator, a list of any subcontractors to whom covered information may be disclosed or a link to a page on the operator’s website that clearly lists that information. 105 ILCS 85/27(a)(3). e. An explanation that is clear and understandable by a layperson, of the following (105 ILCS 85/27(a)(1)): <ol style="list-style-type: none"> i. The <i>data elements</i>⁵ of covered information that the District collects, maintains, or discloses to any person, entity, third party, or governmental agency. ii. To whom or to what entities the covered information is disclosed. iii. How the covered information is used. iv. The purpose of the disclosure of the covered information. f. For breaches involving 10% or more the District’s enrolled students, a list of any breaches of covered information maintained by the District or by an operator that includes the following information (105 ILCS 85/27(a)(5), added by P.A. 101-516, eff. 7-1-21): <ol style="list-style-type: none"> i. The number of students whose covered information was involved in the breach, unless the breach involves the <i>personal information</i> of students, as defined by the Personal Information Protection Act, 815 ILCS 530/10. Personal information means either: <ol style="list-style-type: none"> 1. A student’s first name or first initial and last name in combination with any one or more of his or her (a) social security number, (b) driver’s license number or State ID card number, (c) financial account information (with any required security codes or passwords), (d) medical information, (e) health insurance information, and/or (f) unique biometric data

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⁴ This procedure requires a number of postings of specific information be made available on district’s website. For districts that do not maintain a website, replace that that text with “Make the following information available for inspection by the general public at the District’s administrative office or on the District’s website, if one becomes available.”

⁵ See f/n 1, above.

Actor	Action
	<p>or other unique physical or digital representation of biometric data, when either the name or data elements are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the name or data elements have been acquired through the breach of security; or</p> <p>2. A student’s username or email address, in combination with a password or security question and answer that would permit access to an online account, when either the username or email address or password or security question and answer are not encrypted or redacted or are encrypted or redacted, but the keys to unencrypt or unredact or otherwise read the data elements have been obtained through the breach of security.</p> <p>g. A written description of the procedures a parent may use to carry out their rights to: (1) inspect and review his/her child’s covered information; (2) request electronic or paper copies of his/her child’s covered information and (3) request corrections to his/her child’s inaccurate covered information under SOPPA. 105 ILCS 85/27(4), added by P.A. 101-516, eff. 7-1-21.</p> <p>4. Posts on the District’s website any new operator contracts within 10 business days of the District entering into the contract, along with the information required in items 3.a. through 3.e. listed immediately above.⁶ 105 ILCS 85/27(c), added by P.A. 101-516, eff. 7-1-21.</p> <p>5. Promptly notifies the Superintendent of any breach of covered information or other personal information of students so that appropriate notices can be provided.</p>
Business Manager or Privacy Officer	<p>1. Assists Head of IT in creating, maintaining, and updating the internal inventory list referenced in the row above.</p> <p>2. Reviews operator contracts (including electronic agreements, click wrap agreements, or other terms and conditions a user must agree to before using the product or service) before approval to ensure they contain the provisions required by SOPPA (this can also be accomplished through the Business Manager’s participation in the Committee described above).</p> <p>The following provisions are required for contracts entered into, renewed, or amended on or after 7-1-21, if the operator is seeking in any manner any covered information from the District (105 ILCS 85/15(4), added by P.A. 101-516, eff. 7-1-21):</p>

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⁶ SOPPA is silent on the manner in which a district may comply with posting requirements in items 3.a-3.e above, e.g., whether a district complies if it simply posts a contract, if the contract also contains all the required information in some form, or if a district must also separately list each piece of information on its website. Consult the Board attorney for guidance on this specific implementation issue.

Actor	Action
	<ul style="list-style-type: none"> a. A listing of the categories or types of covered information to be provided to the operator. b. A statement of the product or service being provided to the District by the operator. c. A statement that, pursuant to the federal Family Educational Rights and Privacy Act of 1974 (FERPA), the operator (1) is acting as a school official with a legitimate educational interest, (2) is performing an institutional service or function for which the District would otherwise use employees, (3) is under the direct control of the District, with respect to the use and maintenance of covered information, (4) is using the covered information only for an authorized purpose and (5) may not re-disclose covered information to third parties without the District’s permission or pursuant to a court order. d. A description of how, if a breach is attributed to the operator, any costs and expenses incurred by the District in investigating and remediating the breach will be allocated between the operator and District. The costs and expenses may include, but are not limited to: (1) providing notification to parent of those students whose covered information was compromised and to regulatory agencies or other entities as required by law or contract, (2) providing credit monitoring to those students whose covered information was exposed in a manner during the breach that a reasonable person would believe that it could impact his or her credit or financial security, (3) legal fees, audit costs, fines, and any other fees or damages imposed against the school as a result of the security breach; and (4) providing any other notifications or fulfilling any other requirements adopted by the Ill. State Board of Education or of any other State or federal laws e. A statement that the operator must delete or transfer to the school all covered information if the information is no longer needed for the purposes of the written agreement and to specify the time period in which the information must be deleted or transferred once the operator is made aware that the information is no longer needed for the purposes of the written agreement. f. If the District maintains a website, a statement that the District must publish the written agreement on the District’s website. If the school does not maintain a website, a statement that the District will make the written agreement available for inspection by the general public at its administrative office. <p>3. As permitted by State law, obtains the operator’s agreement regarding what provisions, if any, of the contract will be redacted in the copy that is posted on the District’s website. Items 2.a, 2.b, and 2.c in the list immediately above may NOT be redacted in the posted copy.</p>

Actor	Action
	<ol style="list-style-type: none"> 4. Ensures that the District also has written agreements in place that include the provisions listed in #2 above whenever it shares, transfers, discloses, or provides access to a student’s covered information to an entity or individual, other than the student’s parent, school personnel, Board members, or ISBE, unless the disclosure or transfer is (1) required by court or State or federal law or (2) to ensure legal or regulatory compliance. 105 ILCS 85/26(2), added by P.A. 101-516, eff. 7-1-21. ⁷ 5. With the authorization of the Superintendent, consults with the Board Attorney as needed for contract review. 6. Provides a copy of all operator contracts to the Head of IT for posting on the District’s website.
<p>Head of IT and Records Custodian or Privacy Officer</p>	<ol style="list-style-type: none"> 1. Develops and maintains a protocol to manage parent requests to inspect and review their child’s covered information, whether it is maintained by the District, ISBE, or an operator. 105 ILCS 85/33(c)(1), added by P.A. 101-516, eff. 7-1-21. If the covered information is a <i>school student record</i>, then follow the procedures and timelines for responding to student record requests in 7:340-AP1, <i>School Student Records</i>. 2. Develops and maintains a protocol to manage parent requests for copies (electronic and paper) of students’ covered information. Align the protocol with the following requirements (105 ILCS 85/33(c)(2), added by P.A. 101-516, eff. 7-1-21): <ol style="list-style-type: none"> a. If the parent requests an electronic copy of the student’s covered information, the District must provide an electronic copy of the information, unless the District does not maintain it in an electronic format and reproducing the information in an electronic format would be unduly burdensome to the District. b. If the parent requests a paper copy of the student’s covered information, the District may charge the parent the reasonable cost of copying in an amount not to exceed the amount fixed in a schedule adopted by ISBE. However, the parent may not be denied a copy of the information due to the

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⁷ Under the Ill. School Student Records Act’s implementing regulations, districts are required to transfer the records of a student to another school in which a student has enrolled or intends to enroll upon request of the records custodian of the other school or student, with prior written notice to the parent. 23 Ill.Admin.Code §§375.70, 375.75. It therefore appears that SOPPA does not require a written agreement in such circumstance, to the extent the covered information being shared with another school is part of a student’s records being transferred. SOPPA does not address disclosure of covered information to the board attorney. Consult with the board attorney for guidance on this issue.

Actor	Action
	<p>parent's inability to pay the cost of copying.</p> <ul style="list-style-type: none"> c. The protocol must be consistent with any regulations issued by ISBE. ⁸ d. If the covered information is a <i>school student record</i>, then follow the procedures and timelines for responding to student record requests in 7:340-AP1, <i>School Student Records</i>. <p>3. Develops and maintains a protocol to manage parent requests for corrections to factual inaccuracies contained in a student's covered information. Align the protocol with the following requirements (105 ILCS 85/33(c)(3), added by P.A. 101-516, eff. 7-1-21):</p> <ul style="list-style-type: none"> a. The District must determine whether the factual inaccuracy exists. b. If the District determines that a factual inaccuracy exists, and the District maintains or possesses the covered information, it must correct the inaccuracy and confirm the same with the parent within 90 calendar days after receiving the parent's request. c. If the District determines that a factual inaccuracy exists and an operator or ISBE maintains or possesses the information, the District must notify the operator or ISBE of the factual inaccuracy and correction to be made. The operator or ISBE must confirm the correction with the District within 90 calendar days after it receives the District's notice. The District must then confirm the correction with the parent within 10 business days after receiving confirmation of the correction from the operator or ISBE. d. If the covered information is a <i>school student record</i>, and the parent requests a hearing to challenge the accuracy of the record(s), follow the procedures and timelines in 7:340-AP1, <i>School Student Records</i>. <p>4. Develop and maintain a protocol to manage parent requests for deletion of a student's covered information maintained by an operator. Align the protocol with the following requirements:</p> <ul style="list-style-type: none"> a. Deny the request if granting it would result in a violation of the Ill. School Student Records Act or other records laws, such as the deletion of a <i>school student record</i> (temporary or permanent) that the District is required by law to maintain for a certain period of time. 105 ILCS 85/27(g), added by P.A. 101-516, eff. 7-1-21. b. Consider denying the request if granting it would effectively

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⁸ 105 ILCS 85/33(c)(2) requires ISBE to adopt rules on the methodology and frequency of these types of parent requests. As of PRESS Issue 104, those rules had not been adopted.

Actor	Action
	result in the student being unable to participate in all or a portion of the District's curriculum through the site, service, or application being used. ⁹
Building Principal(s) or Privacy Officer	<ol style="list-style-type: none"> 1. Ensures that parents are provided with 7:345-AP, E2, <i>Notice to Parents About Educational Technology Vendors</i>, at the beginning of each school year through distribution of school handbooks or other means generally used by the building to provide such notices to parents.¹⁰ 105 ILCS 85/28(e), added by P.A. 101-516, eff. 7-1-21. 2. Promptly communicates any parent requests for copies of, corrections to, or deletion of students' covered information to the Records Custodian and Head of IT.
Staff Members	<ol style="list-style-type: none"> 1. Participate in any District-required trainings on the privacy and security of student data. 2. Refrain from using any new online sites, services, or applications that collect any student data or covered information that have not be pre-approved for use by the District. 3. Be familiar with and abide by policy 6:235, <i>Access to Electronic Networks</i>, and 6:235-AP1, <i>Acceptable Use of the District's Electronic Networks</i>.
<p>K-12 Data Privacy and Cybersecurity Resources:</p> <p>www.studentprivacy.ed.gov/ www.ltcillinois.org/resources/dataprivacy/ www.ferpasherpa.org/resources/ www.k12cybersecure.com/resources/ www.cosn.org/ProtectingPrivacy Attai, Linnette. <i>Student Data Privacy: Building a School Compliance Program</i>. (Rowman & Littlefield, 2018).</p>	

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⁹ 105 ILCS 85/27(g) does not list this item as an exception to a parent request for deletion; however, it is included to help districts manage a potentially common scenario.

¹⁰ Members of the Ill. Principals Association (IPA) may subscribe to the IPA's Model Student Handbook Service, which is aligned with IASB's policy services. For more information, see: www.ilprincipals.org/resources/model-student-handbook.

Students

Exhibit – Student Covered Information Reporting Form

Use this sample form to implement the requirements of the Student Online Personal Protection Act (SOPPA) (105 ILCS 85/27(a)(1), added by P.A. 101-516, eff. 7-1-21). SOPPA requires a district to provide a clear and understandable layperson explanation on the district's website (or at the district administrative office, if it does not maintain a website) of the data elements of covered information that a district collects, maintains, or discloses to any person, entity, third party, or governmental agency, as well as other operator-related information.

Covered Information (CI) Disclosed to Operators							
Operator Name	Site/Application /Service	Data Elements of CI	How the CI is Used	Purpose of Disclosure	Link to Copy of Contract	Operator Business Address	Subcontractors to Whom CI is Disclosed

Covered Information (CI) Disclosed to Other Third Parties, Including Government Agencies

Other Third Party/Gov't Agency	Site/Application/Service	Data Elements of CI	How the CI is Used	Purpose of Disclosure

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1 A listing of the "data elements" that the Ill. State Board of Education (ISBE) collects from school districts for its Student Information System (SIS) (which districts submit through their ISBE Web Application Security (IWAS) accounts) is available at: www.isbe.net/Pages/SIS-Data-Elements-approved-codes-and-indicators.aspx; at the "All Data Elements and Validations" tab. SOPPA does not specify whether links to data elements are permitted as a means of compliance. Consult the board attorney for guidance.

Students

Exhibit – Student Data Privacy; Notice to Parents About Educational Technology Vendors

Use the sample text below to provide notice to parents/guardians about educational technology vendors pursuant to the Student Online Personal Protection Act, 105 ILCS 85/28(e), added by P.A. 101-516, eff. 7-1-21. Beginning with the 2021-2022 school year, school districts must provide this notice to parents/guardians at the beginning of each school year through distribution of school handbooks or other means generally used by a district to provide such notices to parents/guardians.

Annual Notice to Parents about Educational Technology Vendors Under the Student Online Personal Protection Act

School districts throughout the State of Illinois contract with different educational technology vendors for beneficial K-12 purposes such as providing personalized learning and innovative educational technologies, and increasing efficiency in school operations.

Under Illinois' Student Online Personal Protection Act, or SOPPA (105 ILCS 85/), educational technology vendors and other entities that operate Internet websites, online services, online applications, or mobile applications that are designed, marketed, and primarily used for K-12 school purposes are referred to in SOPPA as *operators*. SOPPA is intended to ensure that student data collected by operators is protected, and it requires those vendors, as well as school districts and the Ill. State Board of Education, to take a number of actions to protect online student data.

Depending upon the particular educational technology being used, our District may need to collect different types of student data, which is then shared with educational technology vendors through their online sites, services, and/or applications. Under SOPPA, educational technology vendors are prohibited from selling or renting a student's information or from engaging in targeted advertising using a student's information. Such vendors may only disclose student data for K-12 school purposes and other limited purposes permitted under the law.

In general terms, the types of student data that may be collected and shared include personally identifiable information (PII) about students or information that can be linked to PII about students, such as:

- Basic identifying information, including student or parent/guardian name and student or parent/guardian contact information, username/password, student ID number
- Demographic information
- Enrollment information
- Assessment data, grades, and transcripts
- Attendance and class schedule
- Academic/extracurricular activities
- Special indicators (e.g., disability information, English language learner, free/reduced meals or homeless/foster care status)
- Conduct/behavioral data

- Health information
- Food purchases
- Transportation information
- In-application performance data
- Student-generated work
- Online communications
- Application metadata and application use statistics
- Permanent and temporary school student record information

Operators may collect and use student data only for K-12 purposes, which are purposes that aid in the administration of school activities, such as:

- Instruction in the classroom or at home (including remote learning)
- Administrative activities
- Collaboration between students, school personnel, and/or parents/guardians
- Other activities that are for the use and benefit of the school district

Students

Exhibit – Parent Notification Letter for Student Data Breach

Beginning July 1, 2021, use this sample letter to comply with the Student Online Personal Protection Act's requirement that a school district must notify the parent/guardian when the covered information of his/her child has been breached. 105 ILCS 85/27(d), added by P.A. 101-516, eff. 7-1-21.

On District Letterhead

Re: Student Data Breach Notification

Dear Parent(s)/Guardian(s):

Despite the District's ongoing efforts to ensure high levels of security and privacy in the use of online student data, we regret to inform you that certain data about your child [was] **OR** [may have been] compromised in a recent breach of [*insert name of online site, service, or application and name of operator*] **OR** [the District's network]. The breach [is estimated to have] occurred on [*insert date or date range*]. The following information about your child was compromised:

[*Insert description of student's covered information that was compromised or reasonably believed to have been compromised*]

The District [, in cooperation with the operator,] is actively investigating the causes and extent of the breach, and we will keep you apprised of any relevant updates. If you have questions or concerns in the meantime, you may contact me [or directly contact the operator involved]:

[*Insert Superintendent contact information*]

[*Insert operator contact information, if applicable*]

You may also obtain information from the Federal Trade Commission (FTC) and consumer reporting agencies about fraud alerts and security freezes at:

FTC

www.consumer.ftc.gov/articles/0279-extended-fraud-alerts-and-credit-freezes

877-FTC-HELP (382-4537)

Federal Trade Commission

600 Pennsylvania Avenue, NW

Washington, DC 20680

Equifax

www.equifax.com/personal/credit-report-services/

800-685-1111

Equifax Information Services LLC (fraud alert)

P.O. Box 105069

Atlanta, GA 30348-5069

Equifax Information Services LLC (security freeze)
P.O. Box 105788
Atlanta, GA 30348-5069

Experian

www.experian.com/help/
888-EXPERIAN (888-397-3742)

Transunion

<https://www.transunion.com/credit-help>
888-909-8872

Transunion Fraud Victim Assistance (fraud alert)
P.O. Box 2000
Chester, PA 19016

Transunion (security freeze)
P.O. Box 160
Woodlyn, PA 19094

Sincerely,

Superintendent