

Operational Services

Insufficient Fund Checks and Debt Recovery

Insufficient Fund Checks¹

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

Delinquent Debt Recovery²

The Superintendent is authorized to seek collection of delinquent debt owed the District to the fullest extent of the law.³

A Local Debt Recovery Program may be available through the Illinois Office of the Comptroller (IOC). To participate in it, an intergovernmental agreement (IGA) between the District and the IOC must be in existence. The IGA establishes the terms under which the District may refer a delinquent debt to the IOC for an offset (deduction). The IOC may execute an offset, in the amount of the

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

¹ State law controls this policy's content. 810 ILCS 5/3-806 authorizes a \$25.00 collection fee whenever a check is not honored upon presentation because the individual does not have an account with the bank, the individual does not have sufficient funds in his or her account, or the individual does not have sufficient credit with the bank.

This fee may be considered punitive considering several banks rarely charge this amount for an insufficient funds check. To allow more flexibility for the superintendent and his or her designees to charge the full collection fee of \$25.00, a portion thereof, or none of it, the first sentence states "up to the maximum fee." Boards choosing to allow this flexibility should discuss equal protection issues with the board attorney. As a general rule, any flexibility should be applied with uniform rules to all individuals and/or groups to avoid triggering the Constitution's Equal Protection Clause.

Boards that wish to charge the maximum fee in all circumstances should delete the words *up to* in the first sentence: "The Superintendent or designee is responsible for collecting ~~up to~~ the maximum fee authorized by State law for returned checks written to the District that are not honored upon presentation to the respective bank or other depository institution for any reason."

² This section is optional but because the policy's title refers to debt recovery, at least the first sentence should be retained. Deletion of this section may affect a district's ability to enter the Ill. Office of the Comptroller's (IOC) Local Debt Recovery Program (LDRP) for collecting debt owed to school districts by persons receiving payments from the State. This section helps the board's monitoring function by identifying the LDRP's important components. It also serves as an element of due process by informing the public and the district's debtors that the district may collect debt through the LDRP.

The IOC operates an Offset System for collecting debt owed to the State, political subdivisions of the State, and school districts by persons receiving payments from the State. Seeking debt recovery through an offset of a future payment the State makes to a debtor is optional. The requirements in this policy for obtaining an offset are either in statute or the IOC's intergovernmental agreement (IGA). 15 ILCS 405/10.05 and 10.05d. The first step to participate is to contact a LDRP manager with the IOC to request an IGA with the IOC's office. Program managers work one-on-one with districts and matters are handled on a case-by-case basis. The LDRP's number for local governments is 312-814-3090. Contact the board attorney for advice and assistance.

The Hunger-Free Students' Bill of Rights Act (HFSBRA) (105 ILCS 123/) allows districts with *participating schools* under the National School Lunch and Child Nutrition Acts (defined in 7 C.F.R. Parts 210, 220, and 245) to seek an offset under the State Comptroller Act (15 ILCS 405/) when they have made reasonable efforts, for at least one year, to collect a debt owed for meals and snacks in the amount of no less than \$500 from a student's parent or guardian.

³ There are methods other than the IOC's LDRP to collect delinquent debts owed to the school district, i.e., small claims court, private collection agencies, etc. If the district decides it will not ever seek to enter the IOC's Local Debt Recovery Program, keep the first sentence and delete everything after it.

delinquent debt owed to the District, from a future payment that the State makes to an individual or entity responsible for paying the delinquent debt.

The Superintendent or designee shall execute the requirements of the IGA. While executing the requirements of the IGA, the Superintendent or designee is responsible, without limitation, for each of the following:

1. Providing a District-wide, uniform, method of notice and due process to the individual or entity against whom a claim for delinquent debt payment (*claim*) is made. Written notice and an opportunity to be heard must be given to the individual or entity responsible for paying a delinquent debt before the claim is certified to the IOC for offset. The notice must state the claim's amount, the reason for the amount due, the claim's date or time period, and a description of the process to challenge the claim. If reimbursable meals or snacks provided under the Hunger-Free Students' Bill of Rights Act are the basis of the District's delinquent debt claim of no less than \$500, the notice must be sent to a student's parent(s)/guardian(s) only after: (a) the student owes the District more than five meals and/or snacks; (b) the Superintendent or designee made: (i) repeated contacts to collect the amounts owed, and (ii) reasonable efforts to collect the amount due for at least one year; and (c) the District requested the student's parent(s)/guardian(s) to apply for meal benefits pursuant to policy 4:130, *Free and Reduced-Price Food Services*, and they either: (i) did not qualify, or (ii) refused to apply.⁴
2. An individual or entity challenging a claim shall be provided an informal proceeding to refute the claim's existence, amount, or current collectability; the decision following this proceeding shall be reviewable.
 - a. If a waiver of student fees is requested as a challenge to paying the claim, and the waiver of student fees is denied, an appeal of the denial of a fee waiver request shall be handled according to 4:140, *Waiver of Student Fees*. If no waiver of student fees is requested, reviews regarding payment of the claim shall be handled according to this policy before certification to the IOC for offset.
 - b. If application for meal benefits pursuant to policy 4:130, *Free and Reduced-Price Food Services*, is requested as a challenge to paying the claim, and the request is denied, an appeal of the denial of the request shall be handled according to 4:130, *Free and Reduced-Price Food Services*. If no request for meal benefits is received, review of the claim's payment shall be handled according to this policy before certification to the IOC for offset.

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⁴ Optional. For districts that do not participate in free and reduced-price meal programs under the National School Lunch and Child Nutrition Acts (defined in 7 C.F.R. Parts 210, 220, and 245), delete this sentence and ~~105 ILCS 123/, Hunger-Free Students' Bill of Rights Act~~ from the Legal References. Inclusion of this sentence does not obligate a district to pursue all such delinquent debt claims. The district has discretion in this area, provided its recovery efforts are pursued on a non-discriminatory basis. Note that historically, the IOC has been reluctant to pursue school lunch debts under the LDRP.

For participating districts that do not want this sentence, delete it.

For participating districts that wish to retain this sentence, the HFSBRA allows school districts to determine a lower amount than five meals to trigger contact with a student's parent/guardian to collect owed monies. 105 ILCS 123/10.

For districts that want to set a lower amount than the equivalent of five meals, delete ~~five~~ and insert: [number]. Be sure that this sentence's number matches the required notice in 4:130-E, *Free and Reduced-Price Food Services; Meal Charge Notifications*. Before the board and the superintendent engage in a conversation about lowering this number, the superintendent may want to consider a conversation with his or her staff regarding the logistics of contacting a student's parent(s)/guardian(s) more than once per week (five lunches (the law states one free lunch or snack per day)) as setting a lower number may be impracticable for staff members to implement.

3. Certifying to the IOC that the debt is past due and legally enforceable, and notifying the IOC of any change in the status of an offset claim for delinquent debt.
4. Responding to requests for information from the IOC to facilitate the prompt resolution of any administrative review requests received by the IOC.

LEGAL REF.: 15 ILCS 405/10.05 and 10.05d, State Comptroller Act.
 105 ILCS 123/, Hunger-Free Students' Bill of Rights Act.
 810 ILCS 5/3-806, Uniform Commercial Code.