

School Board

Powers and Duties of the School Board; Indemnification

The major powers and duties of the School Board include, but are not limited to:

1. Organizing the Board after each consolidated election by electing officers and establishing its regular meeting schedule and, thereafter, taking action during lawfully called meetings to faithfully fulfill the Board's responsibilities in accordance with State and federal law. ¹
2. Formulating, adopting, and modifying Board policies, at its sole discretion, subject only to mandatory collective bargaining agreements and State and federal law. ²
3. Employing a Superintendent and other personnel, making employment decisions, dismissing personnel, including determining whether an employee has willfully or negligently failed to report an instance of suspected child abuse or neglect as required by 325 ILCS 5/,³ and establishing an equal employment opportunity policy that prohibits unlawful discrimination. ⁴
4. Directing, through policy, the Superintendent, in his or her charge of the District's administration. ⁵
5. Approving the annual budget, tax levies, major expenditures, payment of obligations, annual audit, and other aspects of the District's financial operation; and making available a statement of financial affairs as provided in State law. ⁶

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. School board powers listed in the School Code are not exclusive, meaning that a board may exercise "all other powers not inconsistent with this Act that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board." 105 ILCS 5/10-20. This policy's intent is to list the *major* statutory powers and duties – not all of them. See also 105 ILCS 5/10-20.5 and 5/10-21.

For power/duty #1, see 105 ILCS 5/10-16 and 5/10-16.5 and policies 2:80, *Board Member Oath and Conduct*, and 2:210, *Organizational School Board Meeting*. Boards that elect officers for one-year terms and/or hold organizational meetings yearly, -replace the default text in number 1 with the following:

Annually organizing the Board by electing officers and establishing its regular meeting schedule and, thereafter, taking action during lawfully called meetings to faithfully fulfill the Board's responsibilities in accordance with Board policy and State and federal law.

² 105 ILCS 5/10-20.5 and policy 2:240, *Board Policy Development*; 105 ILCS 5/10-21; and 115 ILCS 5/, Ill. Educational Labor Relations Act.

³ 105 ILCS 5/10-23.12(c), added by P.A. 101-531; 105 ILCS 5/21B-75(b), amended by P.A.s 101-531, ~~and~~ 102-552, ~~and~~ 102-702, *eff. 7-1-23*. For further discussion see f/n 22 in policy 5:90, *Abused and Neglected Child Reporting*. **Note:** While 105 ILCS 5/10-23.12(c) permits boards to *immediately* dismiss certain employees upon the determination that he or she has willfully or negligently failed to report, this does not negate a board's responsibility to provide employees with due process required by the law and district policies and procedures. Consult the board attorney for further guidance.

⁴ 105 ILCS 5/10-21.4 (employing superintendent); 5/10-20.7 and 5/10-21.1 (teachers); 5/10-21.9 (criminal history records checks); 5/10-22.34, *amended by P.A. 102-894* (non~~licensed-certificated~~ personnel-(~~this statute still uses *certificated* rather than *licensed*~~)); 5/10-22.4 (dismissing teachers for cause); and 5/10-23.5 and 5/24-12 (reduction in force). See policies in the **PRESS Policy Reference Manual** Sections 3, General School Administration, and 5, Personnel.

⁵ 105 ILCS 5/10-16.7.

6. Entering contracts using the public bidding procedure when required. ⁷
7. Providing, constructing, controlling, and maintaining adequate physical facilities; making school buildings available for use as civil defense shelters; and establishing a resource conservation policy. ⁸
8. Establishing an equal educational opportunities policy that prohibits unlawful discrimination. ⁹
9. Approving the curriculum, textbooks, and educational services. ¹⁰
10. Evaluating the educational program and approving School Improvement and District Improvement Plans. ¹¹
11. Presenting the District report card and School report card(s) to parents/guardians and the community; these documents report District, School, and student performance. ¹²
12. Establishing and supporting student behavior policies designed to maintain an environment conducive to learning, including deciding individual student suspension or expulsion cases brought before it. ¹³
13. Establishing attendance units within the District and assigning students to the schools. ¹⁴
14. Establishing the school year. ¹⁵
15. Requiring a moment of silence to recognize veterans during any type of school event held at a District school on November 11. ¹⁶
16. Providing student transportation services pursuant to State law. ¹⁷
17. Entering into joint agreements with other boards to establish cooperative educational programs or provide educational facilities. ¹⁸

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⁶ 105 ILCS 5/10-20.19 and 5/17-1 *et seq.* See policies in the **PRESS Policy Reference Manual** Section 4, Operational Services.

⁷ 105 ILCS 5/10-20.21, [amended by P.A. 102-1101](#). See policy 4:60, *Purchases and Contracts*.

⁸ For the first clause, see 105 ILCS 5/10-20.6, 5/10-20.12, 5/10-22.10, 5/10-22.35A, and 5/10-22.36; and policy 4:150, *Facility Management and Building Programs*. For the second clause, see 105 ILCS 5/10-22.35. For the third clause, see 105 ILCS 5/10-20.19c and policy 4:70, *Resource Conservation*.

⁹ Many civil rights laws guarantee equal educational opportunities; see policy 7:10, *Equal Educational Opportunities*.

¹⁰ 105 ILCS 5/10-20.8. See policies in the **PRESS Policy Reference Manual** Section 6, Instruction.

¹¹ 105 ILCS 5/2-3.25d, which addressed school and district improvement plans, was repealed by P.A. 100-1046. 105 ILCS 5/2-3.25f, and 105 ILCS 5/27-1. For more specific information about school and district improvement plans, see policy 6:10, *Educational Philosophy and Objectives*, and ¶n 6 in policy 6:15, *School Accountability*.

¹² 105 ILCS 5/10-17a. This statute details the requirements for *presenting* the district report card and school report card(s), including presenting them at a regular school board meeting and posting them on the district's website.

¹³ 105 ILCS 5/10-20.14 and 5/10-22.6. See policies 7:190, *Student Behavior*; 7:200, *Suspension Procedures*; and 7:210, *Expulsion Procedures*.

¹⁴ 105 ILCS 5/10-21.3 and 5/10-22.5. See policy 7:30, *Student Assignment and Intra-District Transfer*.

¹⁵ 105 ILCS 5/10-19, amended by P.A.s 101-12 and 101-643; 23 Ill.Admin.Code §1.420. See policy 6:20, *School Year Calendar and Day*.

¹⁶ Recognizing veterans on Nov. 11 is required by 105 ILCS 5/10-20.46.

¹⁷ 105 ILCS 5/10-22.22. See policy 4:110, *Transportation*.

¹⁸ 105 ILCS 5/10-22.31a. See policy 1:20, *District Organization, Operations, and Cooperative Agreements*.

18. Complying with requirements in the Abused and Neglected Child Reporting Act (ANCRA). Specifically, each individual Board member must, if an allegation is raised to the member during an open or closed Board meeting that a student is an abused child as defined in ANCRA, direct or cause the Board to direct the Superintendent or other equivalent school administrator to comply with ANCRA's requirements concerning the reporting of child abuse. ¹⁹
19. Notifying the State Superintendent of Education promptly and in writing of the name of a licensed teacher who was convicted of a felony, along with the conviction and the name and location of the court where the conviction occurred. ²⁰
20. Notifying the Teachers' Retirement System (TRS) of the State of Ill. Board of Trustees promptly and in writing when it learns that a teacher as defined in the Ill. Pension Code was convicted of a felony, along with the name and location of the court where the conviction occurred, and the case number assigned by that court to the conviction. ²¹
21. Communicating the schools' activities and operations to the community and representing the needs and desires of the community in educational matters. ²²

Indemnification ²³

To the extent allowed by law, the Board shall defend, indemnify, and hold harmless School Board members, employees, volunteer personnel (pursuant to 105 ILCS 5/10-22.34, 10-22.34a and 10-22.34b), mentors of certified staff (pursuant to 105 ILCS 5/2-3.53a, 2-3.53b, and 105 ILCS 5/21A-5 et seq.), and student teachers who, in the course of discharging their official duties imposed or authorized by law, are sued as parties in a legal proceeding. Nothing herein, however, shall be construed as obligating the Board to defend, indemnify, or hold harmless any person who engages in criminal activity, official misconduct, fraud, intentional or willful and wanton misconduct, or acts beyond the authority properly vested in the individual.

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¹⁹ 325 ILCS 5/4(d), amended by P.A. 101-564. *Abuse* and *neglect* are defined in 325 ILCS 5/3, amended by P.A.s 102-567 and 102-676. For an *adult student with a disability* see 20 ILCS 1305/1-17(b). While board members are not required to take mandated reporter training provided by the Ill. Dept. of Children and Family Services (DCFS), being familiar with ANCRA's definition of an abused child and how mandated reporting works enables board members to better meet their duty under 325 ILCS 5/4(d). Board members may learn about ANCRA by taking DCFS mandated reporter training (available to anyone online at: <https://mr.dcfstraining.org>) or IASB's ANCRA course (available in the Online Learning eCenter at: www.iasb.com).

²⁰ 105 ILCS 5/21B-85(a).

²¹ Id. at 5/21B-85(b), amended by P.A. 102-552.

²² See policy 8:10, *Connection with the Community*.

²³ 105 ILCS 5/10-20.20 (duty to indemnify) and 5/10-22.3 (duty to insure against loss or liability). These statutes identify the same individuals for protection except that the indemnification statute includes mentors of certified staff members. See ¶ 3 in sample policy 4:100, *Insurance Management*.

Public officials or employees who are sued or incur loss because of the performance of their duties imposed or authorized by law on behalf of the public entity are entitled to indemnification. McQuillan on Municipal Corporations §12.137 (3rd ed. 1973). Public employees who must defend themselves in actions based upon the performance of official duties are entitled to indemnification. Wayne Twp. Bd. of Auditors v. Ludwig, 154 Ill.App.3d 899 (2nd Dist. 1987). The public's interest is served by indemnifying public officials and employees in the performance of their official duties in order to recruit and retain qualified public employees and officials.

LEGAL REF.: 105 ILCS 5/10, 5/17-1, 5/21B-85, and 5/27-1.
115 ILCS 5/, Ill. Educational Labor Relations Act.
325 ILCS 5/, Abused and Neglected Child Reporting Act.

CROSS REF.: 1:10 (School District Legal Status), 1:20 (District Organization, Operations, and Cooperative Agreements), 2:10 (School District Governance), 2:80 (Board Member Oath and Conduct), 2:140 (Communications To and From the Board), 2:210 (Organizational School Board Meeting), 2:240 (Board Policy Development), 4:60 (Purchases and Contracts), 4:70 (Resource Conservation), 4:100 (Insurance Management), 4:110 (Transportation), 4:150 (Facility Management and Building Programs), 4:165 (Awareness and Prevention of Sexual Abuse and Grooming Behaviors), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:30 (Hiring Process and Criteria), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; [Code of Professional](#) Conduct; and Conflict of Interest), 5:150 (Personnel Records), 5:210 (Resignations), 5:290 (Employment Termination and Suspensions), 6:10 (Educational Philosophy and Objectives), 6:15 (School Accountability), 6:20 (School Year Calendar and Day), 7:10 (Equal Educational Opportunities), 7:30 (Student Assignment and Intra-District Transfer), 7:190 (Student Behavior), 7:200 (Suspension Procedures), 7:210 (Expulsion Procedures), 8:10 (Connection with the Community), 8:30 (Visitors to and Conduct on School Property)

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School Board

School District Elections ¹

School District elections are non-partisan, governed by the general election laws of the State, and include the election of School Board members, various public policy propositions, and advisory questions.² Board members are elected at the consolidated election held on the first Tuesday in April in odd-numbered years.³ If, however, that date conflicts with the celebration of Passover, the consolidated election is postponed to the first Tuesday following the last day of Passover.⁴ The canvass of votes is conducted by the election authority within 21 days after the election.⁵

The Board, by proper resolution, may cause to be placed on the ballot: (a) public policy referendum according to Article 28 of the Election Code, or (b) advisory questions of public policy according to Section 9-1.5 of the School Code.⁶

The Board Secretary serves as the local election official. He or she receives petitions for the submission of a public question to referenda and forwards them to the proper election officer and otherwise provides information to the community concerning District elections.⁷

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. Consult the board attorney early concerning any election question.

² 105 ILCS 5/9-10 provides that nominating petitions are filed with the county clerk or the county board of election commissioners if one was created pursuant to 10 ILCS 5/6A-1. Objections to nominating petitions or to a petition for a public question are submitted to the county officers electoral board. 10 ILCS 5/10-8 and 10-9. The Election Code also addresses reportable campaign contributions (10 ILCS 5/9); simultaneous filing of nominating petitions (10 ILCS 5/10-6.2); withdrawal from nomination (10 ILCS 5/10-7); Electoral Board duties (10 ILCS 5/10-10); and advertising in proximity of a polling place (10 ILCS 5/19A-70). See also 10 ILCS 5/1-3 (definitions), 5/2A (time of holding elections), and 5/28 (submitting public questions). The school board secretary or clerk has no statutory duties regarding the election of members to the school board. He or she is well-advised to refer all questions to the county clerk or the county board of election commissioners, whichever is applicable.

³ 10 ILCS 5/2A-1.1.

⁴ 10 ILCS 5/2A-1.1a.

⁵ The appropriate *election authority* (county clerk or election commission) canvasses the vote for school district elections. 10 ILCS 5/1-8. The election authority must canvass the vote within 21 days after the election. 10 ILCS 5/22-17 and 5/22-18. Within 4028 days after the consolidated election, boards must hold an organizational meeting to elect officers and fix a time and place for regular meetings. 105 ILCS 5/10-16, amended by P.A. 102-798. See sample policy 2:210, *Organizational School Board Meeting*.

⁶ This policy addresses two types of public questions: (1) binding referendum governed by 10 ILCS 5/28, and (2) advisory questions of public policy governed by 105 ILCS 5/9-1.5. An advisory question must be authorized by majority vote of the board. A third type of public question – a voter-initiated petition – is not covered in the policy; the board does not have any duties regarding this type of petition. A voter-initiated petition must be filed with the school board secretary who, if the timelines are met, must certify the question to be placed on the ballot to the county clerk. 10 ILCS 5/10-15, 5/28-2, and 5/28-5.

⁷ 10 ILCS 5/28-6 provides that any petition for the submission of a public question to referendum must be filed with the *local election official*. The board secretary or clerk is the *local election official*. 105 ILCS 5/9-2 and 10 ILCS 5/1-3. See f/n 2 as many of the duties of the *local election official* were reassigned after the 2014 changes to the law. The board may delete the following PR function: “and otherwise provides information to the community concerning District elections.”

LEGAL REF.: 10 ILCS 5/1-3, 5/2A, 5/9, 5/10-9, 5/22-17, 5/22-18, and 5/28.
105 ILCS 5/9.

CROSS REF.: 2:40 (Board Member Qualifications), 2:50 (Board Member Term of Office),
2:210 (Organizational School Board Meeting)

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School Board

Board Member Term of Office ¹

The term of office for a School Board member begins immediately after both of the following occur:

1. The election authority canvasses the votes and declares the winner(s); this occurs within 21 days after the consolidated election held on the first Tuesday in April in odd-numbered years.
2. The successful candidate takes the oath of office as provided in Board policy 2:80, *Board Member Oath and Conduct*. ²

The term ends 4 years later when the successor assumes office. ³

LEGAL REF.: 10 ILCS 5/2A-1.1, 5/22-17, and 5/22-18.
105 ILCS 5/10-10, 5/10-16, and 5/10-16.5.

CROSS REF.: 2:30 (School District Elections), 2:80 (Board Member Oath and Conduct), 2:210 (Organizational School Board Meeting)

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

¹ State or federal law controls this policy’s content.

² The oath requirement is mandated by 105 ILCS 5/10-16.5, ~~amended by P.A. 100-1055~~.

³ All local canvassing boards were abolished in 2006. The appropriate *election authority* (county clerk or election commission, if one was established under Article 6A of the Election Code) canvasses the vote for school district elections. 10 ILCS 5/1-8. The election authority is responsible for school board member elections. 10 ILCS 5/1-3(8). Any provision in the School Code to the contrary is superseded and ineffective.

The election authority must canvass the vote within 21 days after the election. See 10 ILCS 5/22-17 and 5/22-18. Within ~~4028~~ days after the consolidated election, boards must hold an organizational meeting to elect ~~electing~~ officers and fix a time and place for the regular meetings. 105 ILCS 5/10-16, ~~amended by P.A. 102-798~~.

The board, by resolution, may submit to the district’s voters the question of increasing the term from four to six years. 105 ILCS 5/9-5. If the board has increased the term, edit the text of the policy to reflect it.

School Board

Board Member Conflict of Interest ¹

No School Board member shall: (1) have a beneficial interest directly or indirectly in any contract, work, or business of the District unless permitted by State or federal law;² or (2) solicit or accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to agreements or contracts with the District.³ Situations in which the interest is not substantial or the gift is an unsolicited item of nominal value must comply with State law and Board policy 2:105, *Ethics and Gift Ban*.⁴

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¹ State law and federal regulations control this policy's content. Conflict of interest is comprehensively discussed in the Ill. Council of School Attorneys' publication, **Answers to FAQs, Regarding Conflict of Interest and Incompatible Offices**, available at: www.iasb.com/law/COI_FAQ.pdf.

² The School Code prohibits a school board member from having an interest in a contract with the district he or she serves. Exceptions to this rule permit a board member to provide materials, merchandise, property, services, or labor if: (1) the board member has less than a 7½% share in the ownership of the business; the board member publicly discloses the interest; the board member abstains from voting on the contract; the contract is approved by a majority vote; the contract is awarded after sealed bids to the lowest responsible bidder if the amount of the contract exceeds \$1,500, or awarded without bidding if the amount of the contract is less than \$1,500; and the award of the contract would not cause the aggregate amount of all such contracts so awarded in the same fiscal year to exceed \$25,000; OR (2) the contract is approved by a majority vote, provided that any such interested member shall abstain from voting; the amount of the contract does not exceed \$1,000 or the award of the contract does not cause the aggregate amount of such contracts to the same individual to exceed \$2,000 in the same fiscal year, or \$5,000 in the same fiscal year if the labor or materials to be provided are not otherwise available in the district; and the interested member publicly discloses the interest. See 105 ILCS 5/10-9 for other exceptions.

A board member does not have a prohibited interest in a contract with the district he or she serves "if the board member is an employee of a business that is involved in the transaction of business with the school district, provided that the board member has no financial interests other than as an employee." (105 ILCS 5/10-9(a)).

The Public Officer Prohibited Activities Act prohibits a governing body member from being "in any manner financially interested directly in his own name or indirectly in the name of any other person, association, trust, or corporation, in any contract or the performance of any work in the making or letting of which such officer may be called upon to act or vote." 50 ILCS 105/3(a). Exceptions to this prohibition are similar to those in the School Code.

Generally, an individual may be a board member at a school district that employs his or her spouse. Indeed, 105 ILCS 5/10-22.3a specifically allows a board member to participate in a group health insurance program provided to a district employee if the board member is that employee's dependent, i.e., spouse or child. However, this is a fact-sensitive inquiry; a board member should seek legal counsel before voting on anything related to his or her spouse. See the **Answers to FAQs**, referenced in f/n 1.

A violation of the School Code or Public Officer Prohibited Activities Act is a Class 4 felony. Due to the severity of this penalty as well as to avoid the appearance of impropriety, a legal opinion should be obtained before a board member becomes financially interested in any contract with his or her district. Abstaining on the vote, or absence from the meeting when the vote is taken, does not negate an otherwise illegal conflict of interest.

³ 2 C.F.R. §200.318(c)(1).

⁴ Id. The rule provides flexibility for school districts to "set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value," along with "disciplinary actions to be applied for violations." Referring to sample policy 2:105, *Ethics and Gift Ban*, for these standards provides clarity and consistency. Policy 2:105, *Ethics and Gift Ban*, refers to **Limitations on Receiving Gifts** in the Ethics Act at 5 ILCS 430/10-10 through 10-30, along with discussion of the specific penalties available under the Ethics Act at 5 ILCS 430/50-5 in its **Enforcement** subhead.

Board members must annually file a *Statement of Economic Interests* as required by the Illinois Governmental Ethics Act.⁵ Each Board member is responsible for filing the statement with the county clerk of the county in which the District's main office is located by May 1.

Federal and State Grant Awards⁶

No Board member shall participate in the selection, award, or administration of a contract supported by a federal award or State award governed by the Grant Accountability and Transparency Act (GATA) (30 ILCS 708/) if he or she has a real or apparent conflict of interest. A conflict of interest arises when a Board member or any of the following individuals has a financial or other interest in or a tangible benefit from the entity selected for the contract:

1. ~~Any person that has a close personal relationship with a Board member that may compromise or impair the Board member's fairness and impartiality, including a~~ member of the Board member's immediate family ~~or household~~;
2. The Board member's ~~business~~ partner;⁷ or
3. An entity that employs or is about to employ the Board member or one of the individuals listed in one or two above.

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⁵ 5 ILCS 420/4A-101.5, 4A-105, ~~and 4A-106.5, and 107,~~ amended by P.A. 101-221; ~~5 ILCS 420/4A-102 and 4A-107, amended by P.A.s 101-221 and 102-664; 5 ILCS 420/4A-103, amended by P.A. 102-664.~~ Any county clerk may implement a system of Internet-based filing for economic interest statements. 5 ILCS 420/4A-108, amended by P.A.s 101-221 ~~and 102-664.~~ If an Internet-based filing system is used, the clerk must post the statements, without filers' addresses or signatures, on a publicly accessible website. *Id.*

Each candidate for the school board must file with the county clerk or the county board of election commissioners, whichever is applicable, a receipt from the county clerk showing that the candidate has filed a *Statement of Economic Interests* as required by the Ill. Governmental Ethics Act. 5 ILCS 420/4A-108(b)(3). A candidate's name will be stricken from the ballot if he or she files the incorrect *Statement of Economic Interests* form. *Ferrand v. Chicago Bd. of Election Comm.*, 379 Ill.Dec. 4516 N.E.3d 779 (Ill.App.1st Dist., 2014); *Cortez v. Municipal Officers Electoral Board*, 986 N.E.2d 689369 Ill.Dec. 376 (Ill. App.1st Dist., 2013).

⁶ 2 C.F.R. §200.318(c)(1) prohibits employees, officers, or agents of a school district from participating in the selection, award, or administration of a contract supported by a federal award if they have a *real or apparent conflict of interest*. The term *participate* is not specifically defined in the federal regulation; consult the board attorney regarding other actions the board can take to limit the influence of a conflicted board member, beyond abstention from the board's evaluation and vote on a contract. The uniform federal rules on procurement standards in 2 C.F.R. Part 200 also apply to eligible State grants through the Grant Accountability Transparency Act (GATA), 30 ILCS 708/. Authoritative sources and guidance regarding conflict of interest and financial disclosure are provided through the GATA Resource Library at www.grants.illinois.gov. The State guidance provides examples of situations which may be prohibited or may present a potential conflict of interest. See also the Ill. State Board of Education's *Procurement and Purchasing Checklist* at: www.isbe.net/Pages/Federal-and-State-Monitoring.aspx ~~www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx~~.

The law does not specifically define an *apparent conflict of interest*. For a discussion of what an *apparent conflict of interest* may mean, see the discussion about avoiding the *appearance of impropriety* in the **Answers to FAQs**, cited above in f/n 1.

If the district has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-federal entity must also maintain written standards of conduct covering organizational conflicts of interest. *Organizational conflicts of interest* means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization. 2 C.F.R. §200.318(c)(2).

⁷ The law does not define *partner*; consult the board attorney about whether this term includes domestic partners, business partners, or both.

LEGAL REF.: [105 ILCS 5/10-9.](#)
5 ILCS ~~420/4A-101.5, 420/4A-105, 420/4A-106.5, and 420/4A-107,~~ [Ill. Governmental Ethics Act.](#)
30 ILCS 708/, Grant Accountability and Transparency Act.
50 ILCS 105/3, [Public Officer Prohibited Activities Act.](#)
~~105 ILCS 5/10-9.~~
2 C.F.R. §200.318(c)(1).

CROSS REF.: 2:105 (Ethics and Gift Ban), 4:60 (Purchases and Contracts), 5:120 (Employee Ethics; [Code of Professional Conduct](#); and Conflict of Interest)

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School Board

Ethics and Gift Ban ¹

Prohibited Political Activity

The following precepts govern political activities being conducted by District employees and School Board members:

1. No employee shall intentionally perform any *political activity* during any *compensated time*, as those terms are defined herein. ²
2. No Board member or employee shall intentionally use any District property or resources in connection with any political activity. ³
3. At no time shall any Board member or employee intentionally require any other Board member or employee to perform any political activity: (a) as part of that Board member’s or employee’s duties, (b) as a condition of employment, or (c) during any compensated time off, such as, holidays, vacation, or personal time off.
4. No Board member or employee shall be required at any time to participate in any political activity in consideration for that Board member or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise; nor shall any Board member or employee be awarded additional compensation or any benefit in consideration for his or her participation in any political activity.

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¹ The State Officials and Employees Ethics Act (SOEEA) (5 ILCS 430/) requires a policy on this subject matter and controls its content. 5 ILCS 430/70-5, amended by P.A. 101-221. This policy contains items on which collective bargaining may be required. Any policy that impacts wages, hours, or terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. This policy concerns an area in which the law is unsettled.

The Ill. Attorney General developed a model ethics ordinance to assist units of local government and school districts. See www.ag.state.il.us/government/ethics_ordinance.html. The model ordinance provides that the local governmental entity will enforce the policy through quasi-criminal proceedings or through hiring an attorney to prosecute violators. These penal enforcement provisions present an obvious difficulty for school districts – the legislature has **not** granted school districts the power to adopt penal ordinances and penalties. This sample policy, while based on the Attorney General’s model ordinance, does **not** contain penal provisions and penalties and it does **not** contemplate the hiring of an attorney to prosecute violators.

² In addition to constitutional free speech rights, two State laws must be considered when enforcing the SOEEA. The first law, the Local Governmental Employees Political Rights Act (50 ILCS 135/), prohibits: (1) districts from inhibiting or prohibiting employees in the exercise their political rights, and (2) employees from using their employment to coerce or inhibit others in the free exercise of their political rights and from engaging in political activities while at work. The other law, the Personnel Record Review Act (820 ILCS 40/9), prohibits districts from gathering records about an employee’s political activities unless the activities interfere with the performance of work duties or could cause the district financial liability.

³ The Election Interference Prohibition Act prohibits the use of public funds to “urge any elector to vote for or against any candidate or proposition.” 10 ILCS 5/9-25.1. Spending within the statutory definition of public funds to disseminate facts to the public is permitted under section 9-25.1 and is not *electioneering*. Consequently, a district should not become a political committee by spending funds to disseminate facts. 10 ILCS 5/9-1.14, legislatively overturning Citizens Organized to Save the Tax Cap v. State Bd. of Elections, Northfield Twp. High Sch. Dist., 392 Ill.App.3d 392 (1st Dist. 2009). Consult the board attorney for advice.

A Board member or employee may engage in any activity that: (1) is otherwise appropriate as part of his or her official duties, or (2) is undertaken by the individual on a voluntary basis that is not prohibited by this policy.

Limitations on Receiving Gifts ⁴

Except as permitted by this policy, no Board member or employee, and no spouse of or immediate family member living with a Board member or employee,⁵ shall intentionally solicit or accept any *gift* from any *prohibited source*, as those terms are defined herein, or that is otherwise prohibited by law or policy. No prohibited source shall intentionally offer or make a gift that violates this policy.

The following are exceptions to the ban on accepting gifts from a prohibited source:

1. Opportunities, benefits, and services that are available on the same conditions as for the general public.
2. Anything for which the Board member or employee, or his or her spouse or immediate family member, pays the fair market value.
3. Any: (a) contribution that is lawfully made under the Election Code, or (b) activities associated with a fundraising event in support of a political organization or candidate.
4. Educational materials and missions.
5. Travel expenses for a meeting to discuss business.
6. A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-

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⁴ 5 ILCS 430/10-10 through 10-30 (Gift Ban); 30 ILCS 708/ (Grant Accountability Transparency Act) (GATA); and 2 C.F.R. §200.318(c)(1)(uniform federal procurement standards prohibit board members from soliciting or accepting gratuities, favors, or anything of monetary value from contractor performing work under a contract supported by a federal grant -award). GATA adopts the uniform federal rules for State agencies' administration of eligible State and federal grants.

Generally, 2 C.F.R. §200.318(c)(1) prohibits employees, officers, or agents of a school district from participating in the selection, award, or administration of a contract supported by a federal award if they have a real or apparent *conflict of interest*. For more discussion on conflict of interest, see sample policy 2:100, *Board Member Conflict of Interest*. Specifically, 2 C.F.R. §200.318(c)(1) requires school districts to "set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value (*standards*)," along with "disciplinary actions to be applied for violations (*disciplinary actions*)" without defining *nominal value*.

To avoid confusion and because 2 C.F.R. §200.318(c)(1) provides flexibility to school boards regarding setting *standards* and *disciplinary actions*, sample policy 2:100, *Board Member Conflict of Interest*, refers to this sample policy's subheads: **Limitations on Receiving Gifts** in the Ethics Act at 5 ILCS 430/10-10 – 10-30 (for the federal regulation's *standards*), and **Enforcement** at 5 ILCS 430/50-5 (discussing the specific penalties available under the Ill. Ethics Act for the federal regulation's *disciplinary actions*).

If a board wishes to develop further *standards* and *disciplinary actions* than the Gift Ban section of the SOEEA requires, consult the board attorney.

For further discussion, see the *Grant Accountability and Conflicts of Interest* section in the Ill. Council of School Attorneys' publication, **Answers to FAQs, Conflict of Interest and Incompatible Offices** at: www.iasb.com/law/COI_FAQ.pdf.

⁵ 105 ILCS 5/22-930 (~~final citation pending~~), added by P.A. 102-327 and renumbered by P.A. 102-813, bans high school guidance counselors from intentionally soliciting or accepting gifts from a *prohibited source*, narrowly defined as "any person who is employed by an institution of higher education or is an agent or spouse of or an immediate family member living with a person employed by an institution of higher education." *Id.* Exceptions exist for certain circumstances, e.g., gifts from a relative or based on a personal friendship. A guidance counselor does not violate this law if he or she promptly takes reasonable action to return the gift to the prohibited source or donates the gift or an amount equal to its value to a tax-exempt charity. *Id.*

law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.

7. Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (a) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (b) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (c) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other Board members or employees, or their spouses or immediate family members.
8. Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are: (a) consumed on the premises from which they were purchased or prepared; or (b) catered. *Catered* means food or refreshments that are purchased ready to consume, which are delivered by any means.
9. Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of a Board member or employee), if the benefits have not been offered or enhanced because of the official position or employment of the Board member or employee, and are customarily provided to others in similar circumstances.
10. Intra-governmental and inter-governmental gifts. *Intra-governmental gift* means any gift given to a Board member or employee from another Board member or employee, and *inter-governmental gift* means any gift given to a Board member or employee from an officer or employee of another governmental entity.
11. Bequests, inheritances, and other transfers at death.
12. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

Each of the listed exceptions is mutually exclusive and independent of every other.

A Board member or employee, his or her spouse or an immediate family member living with the Board member or employee, does not violate this policy if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under 26 U.S.C. §501(c)(3).

Enforcement

The Board President and Superintendent shall seek guidance from the Board attorney concerning compliance with and enforcement of this policy and State ethics laws.⁶ The Board may, as necessary or prudent, appoint an Ethics Advisor for this task.

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⁶ This provision is consistent with sample policy 2:160, *Board Attorney*.

Written complaints alleging a violation of this policy shall be filed with the Superintendent or Board President. If attempts to correct any misunderstanding or problem do not resolve the matter, the Superintendent or Board President shall, after consulting with the Board Attorney, either place the alleged violation on a Board meeting agenda for the Board's disposition or refer the complainant to Board policy 2:260, *Uniform Grievance Procedure*. A Board member who is related, either by blood or by marriage, up to the degree of first cousin, to the person who is the subject of the complaint, shall not participate in any decision-making capacity for the Board. If the Board finds it more likely than not that the allegations in a complaint are true, it shall notify the State's Attorney and/or consider disciplinary action for the employee. ⁷

Definitions ⁸

Unless otherwise stated, all terms used in this policy have the definitions given in the State Officials and Employees Ethics Act, 5 ILCS 430/1-5.

Political activity means:

1. Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.
2. Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.
3. Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.
4. Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
5. Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
6. Assisting at the polls on Election Day on behalf of any political organization or candidate for elective office or for or against any referendum question.

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⁷ The Ill. Attorney General's model ethics ordinance includes the specific penalties from the Ethics Act. 5 ILCS 430/50-5. Elsewhere the Act states that a "governmental entity **may** provide in [its] ordinance or resolution ... for penalties similar to those provided in this Act for similar conduct." 5 ILCS 430/70-10. Thus, school boards do not need to enact policy containing criminal sanctions. Rather, as provided in this sample policy, violations can be referred to the State's Attorney.

The Ill. Attorney General's guidance document provides for the unit of local government to use an Ethics Commission to manage complaints. A board that wants to use an Ethics Commission should replace this paragraph, after the first sentence, with the following:

As soon as possible after a complaint is filed, the Superintendent shall appoint a 3-member Ethics Commission. If the Superintendent is the subject of the complaint, the Board President shall perform this duty. Commission members may be any District resident, except that no person shall be appointed who is related, either by blood or by marriage, up to the degree of first cousin, to the person who is the subject of the complaint. If the Commission finds it more likely than not that the allegations in a complaint are true, it shall notify the State's Attorney and/or recommend disciplinary action for the employee.

⁸ The definitions contained in this policy are all from 5 ILCS 430/~~1-5-15~~ with minor adaptations.

7. Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.
8. Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
9. Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
10. Preparing or reviewing responses to candidate questionnaires.
11. Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
12. Campaigning for any elective office or for or against any referendum question.
13. Managing or working on a campaign for elective office or for or against any referendum question.
14. Serving as a delegate, alternate, or proxy to a political party convention.
15. Participating in any recount or challenge to the outcome of any election.

With respect to an employee whose hours are not fixed, *compensated time* includes any period of time when the employee is on premises under the control of the District and any other time when the employee is executing his or her official duties, regardless of location.⁹

Prohibited source means any person or entity who:

1. Is seeking official action by: (a) a Board member, or (b) an employee, or by the Board member or another employee directing that employee;
2. Does business or seeks to do business with: (a) a Board member, or (b) an employee, or with the Board member or another employee directing that employee;
3. Conducts activities regulated by: (a) a Board member, or (b) an employee or by the Board member or another employee directing that employee;
4. Has an interest that may be substantially affected by the performance or non-performance of the official duties of the Board member or employee;
5. Is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors; or
6. Is an agent of, a spouse of, or an immediate family member living with a prohibited source.

Gift means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of a Board member or employee.

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⁹ The Ethics Act prohibits employees from engaging in political activities on *compensated time* but does not define the term. *Compensated time* is easy to determine for employees with fixed working hours. Determining *compensated time* for a salaried employee who does not have obligatory hours of attendance is more difficult. For this reason, the term *compensated time* should include both the time when the employee is physically present on district premises as well as any other time when the employee is engaged in official duties.

Complaints of Sexual Harassment Made Against Board Members by Elected Officials ¹⁰

Pursuant to the State Officials and Employees Ethics Act (5 ILCS 430/70-5), members of the Board and other elected officials are encouraged to promptly report claims of sexual harassment by a Board member. Every effort should be made to file such complaints as soon as possible, while facts are known and potential witnesses are available. If the official feels comfortable doing so, he or she should directly inform the individual that the individual's conduct or communication is offensive and must stop.

Board members and elected officials should report claims of sexual harassment against a member of the Board to the Board President or Superintendent. If the report is made to the Superintendent, the Superintendent shall promptly notify the President, or if the President is the subject of the complaint, the Vice President. Reports of sexual harassment will be confidential to the greatest extent practicable. ¹¹

When a complaint of sexual harassment is made against a member of the Board by another Board member or other elected official, the Board President shall appoint a qualified outside investigator who is not a District employee or Board member to conduct an independent review of the allegations. If the allegations concern the President, or the President is a witness or otherwise conflicted, the Vice President shall make the appointment. If the allegations concern both the President and Vice President, and/or they are witnesses or otherwise conflicted, the Board Secretary shall make the appointment. The investigator shall prepare a written report and submit it to the Board. ¹²

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¹⁰ Required. Under SOEEA, school districts must, by resolution, amend their sexual harassment policies "to provide for a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit." 5 ILCS 430/70-5, amended by P.A. 101-221. This policy includes both elected and appointed board members to effectuate the intent of the law, to comprehensively address sexual harassment in the workplace, and for consistent treatment. The statute does not address whether the *independent review* must or may be limited to a board member's conduct in his or her official capacity, or if it can extend to a board member's behavior in his or her individual capacity. Consult the board attorney for advice. See sample policy 5:20, *Workplace Harassment Prohibited*, and its f/ns for information about what types of conduct may rise to the level of unlawful sexual harassment under federal and State laws. This policy only addresses the requirements of the SOEEA; it does not address harassment complaints made by employees or other non-elected individuals against board members. Such complaints may be processed under sample policy 2:260, *Uniform Grievance Procedure*, or, if the allegations involve Title IX sexual harassment, sample policy 2:265, *Title IX Sexual Harassment Procedure*. See policy 2:260, *Uniform Grievance Procedure*, at f/ns 1 and 6.

Unlike employees, board members are not legally required to take sexual harassment prevention training; however, it is a best practice. The Ill. Dept. of Human Rights offers a free online training module. See sample policy 5:20, *Workplace Harassment Prohibited*, at f/n 4 for more information.

¹¹ The Open Meetings Act (OMA) does not provide a specific exemption for discussion of complaints against a members of a public body in closed session. 5 ILCS 120/2(c)(1), amended by P.A. 101-459.

¹² 5 ILCS 430/70-5(a), amended by P.A. 101-221. The law requires governmental units, including school districts, to conduct an *independent review* of allegations of sexual harassment made against an elected official by another elected official; however, that term is not defined. Consult the board attorney about how to investigate such complaints.

For boards that wish to authorize the superintendent to appoint the outside investigator in these cases, substitute "Superintendent" for "Board President" in the first sentence, delete the second and third sentences in the paragraph, and delete the Cross Reference to 2:110, *Qualifications, Term, and Duties of Board Officers*.

If a Board member has engaged in sexual harassment, the matter will be addressed in accordance with the authority of the Board. ¹³

The Superintendent will post this policy on the District website and/or make this policy available in the District's administrative office. ¹⁴

LEGAL REF.: 105 ILCS 5/22-930 (~~final citation pending~~).
5 ILCS 430/, State Officials and Employees Ethics Act.
10 ILCS 5/9-25.1, Election Interference Prohibition Act.

CROSS REF.: 2:100 (Board Member Conflict of Interest), 2:110 (Qualifications, Term, and Duties of Board Officers), 2:260 (Uniform Grievance Procedure), 4:60 (Purchases and Contracts), 5:120 (Employee Ethics; Code of Professional Conduct; and Conflict of Interest)

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¹³ A board's ability to address the harassing behavior of a board member is relatively limited because it does not have the legal authority to remove one of its members. See sample policy 2:60, *Board Member Removal from Office*, and its footnotes for more information about board member removal. Consult the board attorney when dealing with a claim of sexual harassment by a board member to discuss enforcement options, as well as the accused board member's participation in any decisions regarding the complaint.

¹⁴ This paragraph is optional, but it aligns with the intent of P.A. 101-221. See f/n 10, above.

School Board

Organizational School Board Meeting ¹

During a March meeting in odd-numbered years, the School Board establishes a date for its organizational meeting to be held sometime after the election authority canvasses the vote, but within ~~4028~~ days after the consolidated election. The consolidated election is held on the first Tuesday in April of odd-numbered years. At the organizational meeting, the following shall occur:

1. Each successful candidate, before taking his or her seat on the Board, shall take the oath of office as provided in Board policy 2:80, *Board Member Oath and Conduct*. ²
2. The new Board members shall be seated.
3. The Board shall elect its officers, who assume office immediately upon their election. ³
4. The Board shall fix a time and date for its regular meetings. ^{4 5}

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¹ State law controls this policy's content. Local canvassing boards were abolished in 2006, and the statute requiring school boards to canvass the vote was repealed. The appropriate *election authority* (county clerk or election commission) canvasses the vote for school district elections. 10 ILCS 5/1-8. The election authority must canvass the vote within 21 days after the election. 10 ILCS 5/22-17 and 5/22-18. Sometime between receiving the results from the election authority, but within ~~4028~~ days after the consolidated election, boards must hold an organizational meeting to elect officers and fix a time and place for the regular meetings. 105 ILCS 5/10-16, amended by P.A. 102-798. State law contains the schedule for consolidated elections. 10 ILCS 5/2A-1.1. See sample policy 2:30, *School District Elections*.

The following option may be added after the second sentence of the first paragraph. It allows a board to recognize that the consolidated election will be postponed for Passover (10 ILCS 5/2A-1.1a); the exact provision is already in 2:30, *School District Elections*:

If, however, that date conflicts with the celebration of Passover, the consolidated election is postponed to the first Tuesday following the last day of Passover.

² The oath required by 105 ILCS 5/10-16.5 is "administered as determined by the board." There are lots of variations on how to accomplish this task. One alternative follows:

The meeting is called to order by the Board President, provided he or she is still in office and, if not, by the Vice President. This individual also serves as the meeting's presiding officer. The presiding officer administers the oath of office.

³ Id. A secret vote for officer elections is not permitted. 5 ILCS 120/1.

⁴ The Open Meetings Act and the School Code have different provisions regarding the establishment of a regular meeting schedule. The Open Meetings Act requires each public body to prepare and make available a regular meeting schedule at the beginning of each calendar or fiscal year. 5 ILCS 120/2.03. The School Code states that this task is accomplished during the organizational meeting. 105 ILCS 10-16, amended by P.A. 102-798. By *announcing* the schedule at the beginning of each calendar or fiscal year and by *fixing* the schedule at the organizational meeting, a board can implement both laws.

⁵ For districts that elect board officers for one-year terms, an optional provision follows:

During an April Board meeting in even-numbered years, the Board considers organizational matters, such as, selecting individual members to fill offices with terms that expire this or the next month and fixing a time and date for its regular meetings.

LEGAL REF.: ~~10 ILCS 5/2A-1 et seq.~~ 105 ILCS 5/10-5, 5/10-16, and 5/10-16.5.
[10 ILCS 5/2A-1 et seq., Election Code.](#)

CROSS REF.: 2:30 (School District Elections), 2:110 (Qualifications, Term, and Duties of Board Officers), 2:200 (Types of School Board Meetings), 2:220 (School Board Meeting Procedure), 2:230 (Public Participation at School Board Meetings and Petitions to the Board)

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School Board

Access to District Public Records ¹

Full access to the District’s *public records* is available to any person as provided in the Illinois Freedom of Information Act (FOIA), this policy, and implementing procedures. The Superintendent or designee shall: (1) provide the Board with sufficient information and data to permit the Board to monitor the District’s compliance with FOIA and this policy, and (2) report any FOIA requests during the Board’s regular meetings along with the status of the District’s response. ²

Freedom of Information Officer ³

The Superintendent shall serve as the District’s Freedom of Information Officer and assumes all the duties and powers of that office as provided in FOIA and this policy. The Superintendent may delegate these duties and powers to one or more designees, but the delegation shall not relieve the Superintendent of the responsibility for the action that was delegated.

Definition ⁴

The District’s *public records* are defined as records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary material pertaining to the transaction of public business, regardless of physical form or characteristics, having

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¹ The Ill. Freedom of Information Act (FOIA) governs the subject matter in this policy. 5 ILCS 140/. School districts are required to make public records available to any person for inspection or copying, unless they fall within an exception. 5 ILCS 140/3(a). The f/ns only discuss sections of FOIA that are relevant to school districts. State law does not explicitly require boards to adopt a policy on access to their records. However, a board policy is the logical instrument to memorialize the actions that are required to implement FOIA. The laws limiting the disclosure of employee evaluations are discussed in f/n 7.

See also [Let the Sunshine In: School Board Meetings and Records published by IASB at: www.iasb.com/IASB/media/Documents/JPBSunshine.pdf](http://www.iasb.com/IASB/media/Documents/JPBSunshine.pdf).

Any person denied access to a public record may request a review by the Ill. Public Access Counselor (PAC) established in the office of the Ill. Atty. Gen. 5 ILCS 140/9.5. As a result of the review, the PAC may issue an opinion binding on the requester and public body. IASB reports on the opinions relevant to school districts [on its website](http://www.iasb.com/law/decisions.cfm?SubjectArea=Freedom%20of%20Information%20Act%20-%20FOIA) at: www.iasb.com/law/decisions.cfm?SubjectArea=Freedom%20of%20Information%20Act%20-%20FOIA.

² This sentence allows a board to monitor the district’s compliance with FOIA. This is an important duty as illustrated by FOIA’s provision stating: “It is a fundamental obligation of government to operate openly and provide public records as expeditiously and efficiently as possible.” The School Code requires the FOIA report described in #2 (105 ILCS 5/10-16); it is optional, however, for districts governed by a board of school directors.

³ Each board must designate one or more official(s) or employee(s) to act as its freedom of information officer(s). 5 ILCS 140/3.5 (**referred to in the f/ns as FOIA Officer**). A board may replace *Superintendent* in this paragraph with another job title, or may replace the paragraph with one of the alternatives below:

Alternative 1: The Board will appoint an employee to serve as the District’s Freedom of Information Officer. -That appointee assumes all the duties and powers of that office as provided in FOIA and this policy.

Alternative 2: The Superintendent shall appoint an employee, who may be himself or herself, to [continue as with alternative 1].

⁴ The definition is quoted from 5 ILCS 140/2(c). Substitute the following alternative for this paragraph if desired:
The definition of *public records*, for purposes of this policy, is the definition contained in 5 ILCS 140/2([ce](#)) without amendment.

been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of the School District.

Requesting Records⁵

A request for inspection and/or copies of public records must be made in writing and may be submitted by personal delivery, mail, telefax, or email directed to the District's Freedom of Information Officer. Individuals making a request are not required to state a reason for the request other than to identify when the request is for a commercial purpose or when requesting a fee waiver. The Superintendent or designee shall instruct District employees to immediately forward any request for inspection and copying of a public record to the District's Freedom of Information Officer or designee.

Responding to Requests

The Freedom of Information Officer shall approve all requests for public records unless:

1. The requested material does not exist;⁶
2. The requested material is exempt from inspection and copying by the Freedom of Information Act;⁷ or
3. Complying with the request would be unduly burdensome.⁸

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⁵ This section restates 5 ILCS 140/3(c). Districts may, but are not required to, accept oral requests. Compliance with an oral request may stave off the formal written request and permit more flexibility in the response. If the district wants to accept oral requests, delete ~~must be made in writing~~ and from the first sentence and add the following:

Oral requests may be accepted provided personnel are available to handle them, but otherwise must be made in writing.

The response to an oral request should be documented. Districts may provide a request form for convenience but may not require its use. See 2:250-E1, *Written Request for District Public Records*.

⁶ FOIA does not require a public body to create a record. 5 ILCS 140/1; *Chicago Tribune Co. v. Dept. of Financial and Professional Regulation*, 8 N.E.3d 11 (4th Dist. 2014). However, compiling information already in the public body's possession into a different format in order to respond to a FOIA request does not constitute the creation of a new record. PAO 15-10. See also *Hites v. Waubensee Community College*, 56 N.E.3d 1049 (2nd Dist. 2016) (holding that databases that house aggregations of data and do not merely store documents are subject to FOIA).

⁷ 5 ILCS 140/7, amended by P.A.s 101-434, ~~eff. 1-1-20~~, [102-791](#), [102-752](#), ~~eff. 1-1-23~~, and [102-753](#), ~~eff. 1-1-23~~, and 140/7.5 describe numerous explicit exceptions to the presumption that all public records are available for public inspection. Each record is "presumed to be open to inspection or copying" and the district will have "the burden of proving by clear and convincing evidence that it is exempt." 5 ILCS 140/1.2 and 140/11(f). A person who prevails in a court proceeding to enforce FOIA will be awarded attorney's fees; the public body may incur a civil penalty of between \$2,500 and \$5,000 for each occurrence of a willful or intentional violation of FOIA or other action in bad faith; and courts may impose additional penalties of up to \$1,000 for each day the violation continues if (1) the board fails to comply with the court's order after 30 days, (2) the court's order is not on appeal or stayed, and (3) the court does not grant the public body additional time to comply with the court's order to disclose public records. 5 ILCS 140/11(i) and (j). School officials should seek the board attorney's advice concerning the denial of a record request.

Two State laws limit the disclosure of employee personnel evaluations:

1. The Personnel Record Review Act prohibits the disclosure of performance evaluations. 820 ILCS 40/11.
2. The School Code prohibits the disclosure of public school teacher, principal, and superintendent performance evaluations except as otherwise provided in the certified employee evaluation laws. 105 ILCS 5/24A-7.1.

⁵ ILCS 140/7(kk), added by P.A. 101-434, ~~eff. 1-1-20~~, exempts from disclosure "the public body's credit card numbers, debit card numbers, bank account numbers, Federal Employer Identification Number, security code numbers, passwords, and similar account information" that could result in identity theft or fraud of a government entity or a person.

⁸ 5 ILCS 140/3(g).

Within five business days after receipt of a request for access to a public record, the Freedom of Information Officer shall comply with or deny the request, unless the time for response is extended as specified in Section 3 of FOIA.⁹ The Freedom of Information Officer may extend the time for a response for up to five business days from the original due date.¹⁰ If an extension is needed, the Freedom of Information Officer shall: (1) notify the person making the request of the reason for the extension, and (2) either inform the person of the date on which a response will be made, or agree with the person in writing on a compliance period.¹¹

The time periods are extended for responding to requests for records made for a *commercial purpose*, requests by a *recurrent requester*, or *voluminous requests*, as those terms are defined in Section 2 of FOIA. The time periods for responding to those requests are governed by Sections 3.1, 3.2, and 3.6 of FOIA.¹²

When responding to a request for a record containing both exempt and non-exempt material, the Freedom of Information Officer shall redact exempt material from the record before complying with the request.¹³

Fees¹⁴

Persons making a request for copies of public records must pay any and all applicable fees. The Freedom of Information Officer shall establish a fee schedule that complies with FOIA and this policy and is subject to the Board's review. The fee schedule shall include copying fees and all other fees to the maximum extent they are permitted by FOIA, including without limitation, search and

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⁹ 5 ILCS 140/3(d). Reasons for extensions are addressed at 5 ILCS 140/3(e). Public bodies must respond to FOIA requests. PAOs 16-05, 16-04, 16-03, and 16-01. Public bodies must also conduct a reasonable search for public records responsive to a FOIA request, which includes searching public employees' communications on personal devices or accounts for records pertaining to the transaction of public business. PAO 16-06.

¹⁰ 5 ILCS 140/3(e).

¹¹ 5 ILCS 140/3(f). A board may replace the default paragraph with the following alternative:

The Freedom of Information Officer shall respond to record requests according to the time periods described in 5 ILCS 140/3.

¹² The timelines are extended to respond to a: (1) *recurrent requester* (defined in 5 ILCS 140/2(g)); (2) request with a *commercial purpose* (defined in 5 ILCS 140/2(c-10)); and (3) *voluminous request* (defined in 5 ILCS 140/2(h)). To use the extended timelines, a district must follow the requirements in 5 ILCS 140/3.2 for responding to a *recurrent requester*; 5 ILCS 140/3.1 for responding to a request with a *commercial purpose*; and 5 ILCS 140/3.6 for responding to a *voluminous request*. See administrative procedure 2:250-AP1, *Access to and Copying of District Public Records*, for additional information.

¹³ 5 ILCS 140/7, amended by P.A.s 101-434, [eff. 1-1-20102-791, 102-752, eff. 1-1-23, and 102-753, eff. 1-1-23](#). Redacting exempt portions is permitted, but not required, except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted before disclosure. 5 ILCS 140/2.10. Reviewing past responses to FOIA requests will promote uniform treatment of requests for similar records.

¹⁴ 5 ILCS 140/6. The first paragraph's intent is to be efficient and avoid paraphrasing a complex law. See 2:250-AP1, *Access to and Copying of District Public Records*, for a fee schedule identifying the maximum fees permitted.

5 ILCS 140/6(a) states: "If a request is *not* a request for a *commercial purpose* or a *voluminous request*, a public body may *not* charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records." (Emphasis added.) This implies that a search and review fee may be charged when responding to a request for a *commercial purpose* or a *voluminous request*. However, 5 ILCS 140/6(b) states that the search and review fee described in 5 ILCS 140/6(f) may be charged *only to* someone making a *commercial request*. 5 ILCS 140/6(f) contains the maximum amounts that may be charged for search and review but does not explain when they may be charged. The FOIA Officer will need to consult the board attorney concerning fees.

review fees for responding to a request for a *commercial purpose* and fees, costs, and personnel hours in connection with responding to a *voluminous request*.

Copying fees, except when fixed by statute, shall be reasonably calculated to reimburse the District's actual cost for reproducing and certifying public records and for the use, by any person, of its equipment to copy records. In no case shall the copying fees exceed the maximum fees permitted by FOIA. If the District's actual copying costs are equal to or greater than the maximum fees permitted by FOIA, the Freedom of Information Officer is authorized to use FOIA's maximum fees as the District's fees. No copying fees shall be charged for: (1) the first 50 pages of black and white, letter or legal sized copies, or (2) electronic copies other than the actual cost of the recording medium, except if the response is to a *voluminous request*, as defined in FOIA.

A fee reduction is available if the request qualifies under Section 6 of FOIA. The Freedom of Information Officer shall set the amount of the reduction taking into consideration the amount of material requested and the cost of copying it. ¹⁵

Provision of Copies and Access to Records

A public record that is the subject of an approved access request will be available for inspection or copying at the District's administrative office during regular business hours, unless other arrangements are made by the Freedom of Information Officer. ¹⁶

Many public records are immediately available from the District's website including, but not limited to, the process for requesting a public record.¹⁷ The Freedom of Information Officer shall direct a requester to the District's website if a requested record is available there. If the requester is unable to reasonably access the record online, he or she may resubmit the request for the record, stating his or her inability to reasonably access the record online, and the District shall make the requested record available for inspection and copying as otherwise provided in this policy. ¹⁸

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¹⁵ 5 ILCS 140/6(c) makes it mandatory to furnish records "without charge or at a reduced charge" if the request is in the *public interest* as defined by FOIA. If a board wants to indicate when a reduction is available by paraphrasing the statute, it may substitute the following alternative for the default paragraph:

A fee reduction is available if the person requesting the record states a specific purpose for the request and indicates that a fee reduction is in the public interest by having as its principal purpose the preservation of the general public's health, safety, welfare, or legal rights and is not for the principal purpose of personal or commercial benefit. The Freedom of Information Officer shall set the amount of the reduction, taking into consideration the amount of material requested and the cost of copying it.

¹⁶ Public bodies may adopt rules for the times and places where records will be made available. 5 ILCS 140/3(h). A board may amend this sentence to reflect other times and/or places where records will be made available.

¹⁷ 5 ILCS 140/4. A district may reduce FOIA requests by posting records on its website. Many records are required to be web-posted, see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. If the district does not have a website, [changereplace](#) this paragraph as follows:

Some public records are available for immediate access including a description of the process for requesting a public record, and a list of all types or categories of records under its control.

For a list of required web-postings see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Using the district's website is also a convenient way to comply with FOIA's requirement to identify documents that are *immediately* available. 5 ILCS 140/3.5(a). Although not required to be web-posted, a list of all types or categories of records under its control must be prepared and made available. 5 ILCS 140/5; see 2:250-AP1, *Access to and Copying of District Public Records*.

¹⁸ 5 ILCS 140/8.5.

Preserving Public Records

Public records, including email messages, shall be preserved and cataloged if: (1) they are evidence of the District's organization, function, policies, procedures, or activities, (2) they contain informational data appropriate for preservation, (3) their retention is required by State or federal law, or (4) they are subject to a retention request by the Board Attorney (e.g., a litigation hold), District auditor, or other individual authorized by the School Board or State or federal law to make such a request.¹⁹ Unless its retention is required as described in items numbered 3 or 4 above, a public record, as defined by the Illinois Local Records Act, may be destroyed when authorized by the Local Records Commission.²⁰

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¹⁹ The Local Records Act (50 ILCS 205/3) requires the preservation of records described in items #1-3. The preservation of records described in item #3 is also required by the Family Educational Rights and Privacy Act (20 U.S.C. §1232g) and the Ill. School Student Records Act (105 ILCS 10/), among other laws. An example of a record described in item #4 is a record subject to a *litigation hold* or a document preservation requirement pursuant to Federal Rules of Civil Procedure, Rules 16 and 26.

Categorizing email messages is complicated because two laws apply and the rules differ when a board member is a party. See sample policy 2:140, *Communications To and From the Board*, for a discussion of email between or among board members. When employees or agents are using email for school purposes, the email messages may be *public records*, but will not necessarily be subject to disclosure depending on the topic discussed. FOIA's list of exemptions from disclosure determines whether these emails are subject to disclosure. For exemptions see 5 ILCS 140/7, amended by P.A. [101-434, eff. 1-1-20](#); [102-791, 102-752, eff. 1-1-23, and 102-753, eff. 1-1-23](#), and 140/7.5.

Not all email messages between or among employees must be preserved, even if they are *public records* for purposes of FOIA. The definition of *public record* in the Local Records Act (50 ILCS 205/3) is narrower than its definition in FOIA. Thus, staff email, like all district records, must be retained only when it contains material described in #1-4. While this is a slippery slope without definitive parameters, employee email that is conversational or personal, or contains brainstorming may generally be deleted.

The Prevailing Wage Act (820 ILCS 130/5, [amended by P.A. 100-1177](#)) requires contractors, while participating in public works, to keep certified payroll records of all laborers, mechanics, and other workers employed by them on the project and to submit this record no later than the 15th of the month to the public body, until the Ill. Dept. of Labor (IDOL) activates an electronic database for certified payrolls no later than 4-1-20, at which time contractors will submit certified payrolls only to that database. *Id.* The public body in charge of the project must keep the records submitted before 1-1-14 for a period of not less than three years. Records submitted on or after 1-1-14 must be kept for a period of five years or until the IDOL activates the electronic database for certified payrolls, whichever is less. *Id.* Records may be retained in paper or electronic format. These records are considered public records, except for contractors' employees' addresses, telephone numbers, social security numbers, race, ethnicity, and gender, and they must be made available in accordance with FOIA. *Id.* **Note:** 820 ILCS 130/5, [amended by P.A. 100-1177](#), requires contractors to maintain records of the race, ethnicity, gender, and veteran status of workers on a public works project. FOIA, however, was not similarly amended to require public bodies to redact the workers' race, ethnicity, and gender from certified payroll records before disclosure. See 5 ILCS 140/2.10. The Ill. Atty. Gen. has previously issued at least one non-binding opinion finding that disclosure of a person's gender is not an unwarranted invasion of personal privacy under 5 ILCS 140/7(1)(c). Districts should consult with their board attorneys regarding what categories of information may be properly redacted in response to a FOIA request for certified payroll records.

²⁰ 50 ILCS 205/. Preservation and destruction of documents is covered in 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*. See also the Ill. Secretary of State's website for information on preserving and destroying records [at: www.cyberdriveillinois.com/departments/archives/records_management/](http://www.cyberdriveillinois.com/departments/archives/records_management/).

LEGAL REF.: 5 ILCS 140/, Illinois Freedom of Information Act.
105 ILCS 5/10-16 and 5/24A-7.1.
820 ILCS 40/11.
820 ILCS 130/5.

CROSS REF.: 2:140 (Communications To and From the Board), 5:150 (Personnel Records),
7:340 (Student Records)

DRAFT

School Board

Title IX Sexual Harassment Grievance Procedure ¹

Sexual harassment affects a student’s ability to learn and an employee’s ability to work. Providing an educational and workplace environment free from sexual harassment is an important District goal. The District does not discriminate on the basis of sex in any of its education programs or activities, and it complies with Title IX of the Education Amendments of 1972 (Title IX) and its implementing regulations (34 C.F.R. Part 106) concerning everyone in the District’s education programs and activities, including applicants for employment, students, parents/guardians, employees, and third parties.

Title IX Sexual Harassment Prohibited

Sexual harassment as defined in Title IX (Title IX Sexual Harassment) is prohibited. Any person, including a District employee or agent, or student, engages in Title IX Sexual Harassment whenever that person engages in conduct on the basis of an individual’s sex that satisfies one or more of the following: ²

1. A District employee conditions the provision of an aid, benefit, or service on an individual’s participation in unwelcome sexual conduct;³ or

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¹ Title IX of the Education Amendments of 1972 (Title IX) (20 U.S.C. §1681 *et seq.*) requires this subject matter be covered by policy and controls this policy’s content. This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. Employee grievance procedures are a mandatory subject of bargaining and cannot be changed without the employee exclusive representative’s consent. This policy and its companion policy 2:260, *Uniform Grievance Procedure*, are in addition to, and not a substitute for, the employee grievance procedure contained in a collective bargaining agreement.

For the sake of consistency and ease of administration, this policy addresses only Title IX sexual harassment grievances, except those contained in collective bargaining agreements. See the cross references for the policies referring to this Title IX sexual harassment grievance procedure policy.

A district must have at least one policy explicitly stating it does not discriminate on the basis of sex in its education programs or activities under Title IX and its implementation regulations (34 C.F.R. Part 106). 34 C.F.R. §106.8(b)(1). Title IX jurisdiction is geographically limited to discrimination against a person in the United States. 34 C.F.R. §106.8(d). Though all complaints of sexual harassment may not constitute sexual harassment under Title IX, Title IX’s reach is broad because an alleged complainant or alleged respondent may be *anyone* in the District’s educational program or activity in the United States – including applicants for employment, students, parents/guardians, any employee, and third parties.

² 34 C.F.R. §106.30. The definition of *sexual harassment* in the policy and in Title IX includes *unwelcome* conduct. *Id.* However, case law does not always distinguish between *welcome* and *unwelcome* conduct. See Mary M. v. North Lawrence Community Sch. Corp., 131 F.3d 1220 (7th Cir. 1997) (8th grade student did not need to show that a school employee’s sexual advances were *unwelcome* in order to prove sexual harassment).

³ 34 C.F.R. §106.30. This behavior is commonly called *quid pro quo* sexual harassment. See 85 Fed. Reg. 30036, f/n 94. By using the term *individual*, Title IX regulations do not limit *quid pro quo* sexual harassment to situations where the provision of an aid, benefit or service by an employee is conditioned on a current *student’s* participation in unwelcome sexual conduct. By way of example, *quid pro quo* Title IX sexual harassment involving an employee and an individual other than a current student may be implicated when: an employee tells a former student she can only get a letter of recommendation if she participates in unwelcome sexual conduct; an employee selects a volunteer for a coveted field trip chaperone position if he participates in unwelcome sexual conduct; or a supervisory employee subjects a subordinate employee to unwelcome sexual conduct in exchange for a promotion.

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's educational program or activity; or
3. *Sexual assault* as defined in 20 U.S.C. §1092(f)(6)(A)(v), *dating violence* as defined in 34 U.S.C. §12291(a)(1~~10~~), *domestic violence* as defined in 34 U.S.C. §12291(a)(~~128~~), or *stalking* as defined in 34 U.S.C. §12291(a)(3~~60~~). ⁴

Examples of sexual harassment include, but are not limited to, touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, spreading rumors related to a person's alleged sexual activities, rape, sexual battery, sexual abuse, and sexual coercion.

Definitions from 34 C.F.R. §106.30

Complainant means an individual who is alleged to be the victim of conduct that could constitute sexual harassment. ⁵

Education program or activity includes locations, events, or circumstances where the District has substantial control over both the *Respondent* and the context in which alleged sexual harassment occurs. ⁶

Formal Title IX Sexual Harassment Complaint means a document filed by a *Complainant* or signed by the Title IX Coordinator⁷ alleging sexual harassment against a *Respondent* and requesting that the District investigate the allegation. ⁸

Respondent means an individual who has been reported to be the perpetrator of the conduct that could constitute sexual harassment. ⁹

Supportive measures mean non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the *Complainant* or the *Respondent* before or after the filing of a *Formal Title IX Sexual Harassment Complaint* or where no *Formal Title IX Sexual Harassment Complaint* has been filed. ¹⁰

Title IX Sexual Harassment Prevention and Response

The Superintendent or designee will ensure that the District prevents and responds to allegations of Title IX Sexual Harassment as follows:

1. Ensures that the District's comprehensive health education program in Board policy 6:60, *Curriculum Content*, incorporates (a) age-appropriate sexual abuse and assault awareness and

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⁴ See sample exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*, for these definitions and other definitions of italicized terms in this policy. [Title IX regulations at 34 C.F.R. §106.30 contain pinpoint citations to the Violence Against Women Act \(VAWA\), 34 U.S.C. §12291 et seq., for the definitions of dating violence, domestic violence, and stalking. VAWA was reauthorized in 2022 and the citations changed; however, 34 C.F.R. §106.30 has not been updated. This policy uses the updated VAWA citations.](#)

⁵ 34 C.F.R. §106.30.

⁶ 34 C.F.R. §106.44(a).

⁷ See f/n 19 in sample policy 2:260, *Uniform Grievance Procedure*.

⁸ 34 C.F.R. §106.30.

⁹ *Id.*

¹⁰ *Id.* See sample administrative procedure 2:265-API, *Title IX Sexual Harassment Response*, for further discussion of supportive measures.

prevention programs in grades pre-K through 12,¹¹ and (b) age-appropriate education about the warning signs, recognition, dangers, and prevention of teen dating violence in grades 7-12.¹² This includes incorporating student social and emotional development into the District’s educational program as required by State law and in alignment with Board policy 6:65, *Student Social and Emotional Development*.

2. Incorporates education and training for school staff¹³ as recommended by the Superintendent, Title IX Coordinator, Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager.¹⁴
3. Notifies applicants for employment,¹⁵ students, parents/guardians, employees, and collective bargaining units of this policy and contact information for the Title IX Coordinator by, at a minimum, prominently displaying them on the District’s website, if any, and in each handbook made available to such persons.¹⁶

Making a Report

A person who wishes to make a report under this Title IX Sexual Harassment grievance procedure may make a report to the Title IX Coordinator, Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any employee with whom the person is comfortable speaking.¹⁷ A person who wishes to make a report may choose to report to a person of the same gender.

School employees shall respond to incidents of sexual harassment by promptly making or forwarding the report to the Title IX Coordinator. An employee who fails to promptly make or forward a report may be disciplined, up to and including discharge.

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¹¹ Required by 105 ILCS 110/3 and 105 ILCS 5/10-23.13 (*Erin’s Law*).

¹² Required by *Id.* at 110/3.

¹³ For boards that insert optional paragraphs listing trainings in f/n 4 of policy 5:100, *Staff Development Program*, insert “pursuant to policy 5:100, *Staff Development Program*, and” after the word staff.

¹⁴ 105 ILCS 110/3. Detailed training requirements exist for Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. 34 C.F.R. §106.45(b)(1)(iii). Title IX rules “[leave districts] discretion to determine the kind of training to other employees that will best enable the [district], and its Title IX Coordinator, to meet Title IX obligations.” 85 Fed. Reg. 30114. Many attorneys agree the best practice is to train all district staff about the definition of sexual harassment, the scope of the district’s education program or activity, all relevant district policies and procedures, and the necessity to promptly forward all reports of sexual harassment to the Title IX coordinator. See sample procedure 2:265-AP1, *Title IX Sexual Harassment Response*.

¹⁵ Most school districts are not covered by Subpart C of Title IX, which “applies only to institutions of vocational education, professional education, graduate higher education, and public institutions of undergraduate higher education.” 34 C.F.R. §106.15(d). If your district is covered by Subpart C, amend this to state “applicants for admission or employment.”

¹⁶ 34 C.F.R. §106.8. See paragraph 2 of f/n 219 in sample policy 2:260, *Uniform Grievance Procedure*. See also sample exhibit 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

¹⁷ Using “or any employee with whom the Complainant is comfortable speaking” ensures Title IX compliance -because Title IX deems “any employee” of an elementary or secondary school who has notice of sexual harassment or allegations of sexual harassment to have *actual knowledge*. Therefore, a report to any employee triggers a district’s duty to respond. 34 C.F.R. §106.30. This policy contains an item upon which collective bargaining may be required. Any policy that impacts wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

The Superintendent shall insert into this policy and keep current the name, office address, email address, and telephone number of the Title IX Coordinator. ¹⁸

Title IX Coordinator:

Name

Address

Email

Telephone

Processing and Reviewing a Report or Complaint

Upon receipt of a report, the Title IX Coordinator and/or designee will promptly contact the *Complainant* to: (1) discuss the availability of supportive measures, (2) consider the *Complainant's* wishes with respect to *supportive measures*, (3) inform the *Complainant* of the availability of *supportive measures* with or without the filing of a *Formal Title IX Sexual Harassment Complaint*, and (4) explain to the *Complainant* the process for filing a *Formal Title IX Sexual Harassment Complaint*.¹⁹

Further, the Title IX Coordinator will analyze the report to identify and determine whether there is another or an additional appropriate method(s) for processing and reviewing it.²⁰ For any report received, the Title IX Coordinator shall review Board policies 2:260, *Uniform Grievance Procedure*; 5:20, *Workplace Harassment Prohibited*; 5:90, *Abused and Neglected Child Reporting*; 5:120, *Employee Ethics*; [Code of Professional Conduct](#); and *Conflict of Interest*;²¹ 7:20, *Harassment of Students Prohibited*; 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*; 7:185, *Teen Dating Violence Prohibited*; and 7:190, *Student Behavior*, to determine if the allegations in the report require further action.

Reports of alleged sexual harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain an educational program or activity that is productive, respectful, and free of sexual harassment.

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¹⁸ Title IX regulations require districts to designate and authorize at least one employee to coordinate its efforts to comply with Title IX and to refer to that employee as the *Title IX Coordinator*. 34 C.F.R. §106.8(a). Districts must identify the Title IX coordinator by name, office address, email address, and telephone number. *Id.* A district's nondiscrimination coordinator often also serves as its Title IX coordinator. See sample policy 2:260, *Uniform Grievance Procedure*.

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

¹⁹ Required by 34 C.F.R. §106.44(a) and (b) regardless of whether a formal Title IX sexual harassment complaint is filed.

²⁰ See sample exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*, for a discussion of Title IX sexual harassment and non-Title IX sexual harassment. Consult the board attorney for further guidance.

²¹ See sample administrative procedure 5:120-AP2, *Employee Conduct Standards*.

Formal Title IX Sexual Harassment Complaint Grievance Process

When a *Formal Title IX Sexual Harassment Complaint* is filed, the Title IX Coordinator will investigate it or appoint a qualified person to undertake the investigation. ²²

The Superintendent or designee shall implement procedures to ensure that all *Formal Title IX Sexual Harassment Complaints* are processed and reviewed according to a Title IX grievance process that fully complies with 34 C.F.R. §106.45.²³ The District’s grievance process shall, at a minimum: ²⁴

1. Treat *Complainants* and *Respondents* equitably by providing remedies to a *Complainant* where the *Respondent* is determined to be responsible for sexual harassment, and by following a grievance process that complies with 34 C.F.R. §106.45 before the imposition of any disciplinary sanctions or other actions against a *Respondent*.
2. Require an objective evaluation of all relevant evidence – including both inculpatory and exculpatory evidence – and provide that credibility determinations may not be based on a person’s status as a *Complainant*, *Respondent*, or witness.
3. Require that any individual designated by the District as a Title IX Coordinator, investigator, decision-maker, or any person designated by the District to facilitate an informal resolution process:
 - a. Not have a conflict of interest or bias for or against complainants or respondents generally or an individual *Complainant* or *Respondent*.
 - b. Receive training on the definition of sexual harassment, the scope of the District’s *education program or activity*, how to conduct an investigation and grievance process (including hearings, appeals, and informal resolution processes, as applicable), and how to serve impartially. ²⁵

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²² This policy gives Title IX coordinators the flexibility to appoint another qualified individual to conduct an investigation. This may be appropriate when the neutrality or efficacy of the Title IX coordinator is an issue, and/or where the district wishes to have the expertise that an in-house or outside attorney may afford to an investigation. Alternative appointments are often made in consultation with the superintendent or other district-level administrator (except in cases involving complaints about those individuals) and the board attorney. If a complaint involves the superintendent or other district-level administrator, alternative appointments are often made in consultation with the board and the board attorney.

²³ 34 C.F.R. §106.45(b). See sample administrative procedures 2:265-AP1, *Title IX Sexual Harassment Response*, and 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

²⁴ 34 C.F.R. §106.45(b)(1) lists the basic requirements for a grievance process. While live hearings are only required for postsecondary institutions, elementary and secondary schools may choose to offer them as part of their grievance process. **Consult the board attorney if the board wants the district to use a live hearing in its grievance process.**

If using a live hearing during the grievance process, amend #5 by inserting the following underscored text: “Require that any individual designated by the District as a decision-maker receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the Complainant’s sexual predisposition or prior sexual behavior are not relevant.”

²⁵ Aside from the general training requirements of 34 C.F.R. §106.45(b)(1)(iii), the DOE gives districts flexibility to determine certain training practices or techniques to best meet training requirements based upon their unique local conditions and resources within their educational community. 85 Fed. Reg. 30120. See also 85 Fed. Reg. 30084 (declining to specify that training of Title IX personnel must include implicit bias training, so long as training provides instruction on how to serve impartially and avoid prejudice of the facts at issue, conflicts of interest, and bias, and that training materials avoid sex stereotypes).

4. Require that any individual designated by the District as an investigator receiving training on issues of relevance to create an investigative report that fairly summarizes relevant evidence.
5. Require that any individual designated by the District as a decision-maker receive training on issues of relevance of questions and evidence, including when questions and evidence about the *Complainant's* sexual predisposition or prior sexual behavior are not relevant.
6. Include a presumption that the *Respondent* is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.
7. Include reasonably prompt timeframes for conclusion of the grievance process.
8. Describe the range of possible disciplinary sanctions and remedies the District may implement following any determination of responsibility.
9. Base all decisions upon the *preponderance of evidence* standard.²⁶
10. Include the procedures and permissible bases for the *Complainant* and *Respondent* to appeal.
11. Describe the range of *supportive measures* available to *Complainants* and *Respondents*.
12. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.²⁷

Enforcement

Any District employee who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be subject to disciplinary action up to and including discharge. Any third party who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any District student who is determined, at the conclusion of the grievance process, to have engaged in sexual harassment will be subject to disciplinary action, including, but not limited to, suspension and expulsion consistent with

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²⁶ 34 C.F.R. §106.45(b)(1)(vii) requires the Title IX sexual harassment grievance process to state the standard of evidence it will use to determine responsibility of the respondent. The standard of evidence selected must be applied “consistently to formal complaints alleging Title IX sexual harassment regardless of whether the respondent is a student or an employee.” 85 Fed. Reg. 30373. This sample policy uses the *preponderance of the evidence* standard, not the *clear and convincing evidence* standard. *Preponderance of evidence* is a standard used in civil cases. It means “the greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force.” See *Black’s Law Dictionary, 11th ed. 2019*. *Preponderance of the evidence* is the standard used in sample policy 2:260, *Uniform Grievance Procedure*. *Clear and convincing* is a higher standard, requiring more than *preponderance of the evidence* but less than proof beyond a reasonable doubt. It means “evidence indicating that the thing to be proved is highly probable or reasonably certain.” See *Black’s Law Dictionary, 11th ed. 2019*. **Consult the board attorney regarding the appropriate standard for the district, as well as implications if a different standard is used in this policy than in 2:260, Uniform Grievance Procedure.** For boards that choose the *clear and convincing evidence* standard, delete “*preponderance of*” and insert “*clear and convincing*.” Ensure the same standard of evidence is used in 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

²⁷ Examples of legally-recognized privileges include attorney-client privilege, doctor-patient privilege, and spousal privilege. See 85 Fed. Reg. 30277.

student behavior policies.²⁸ Any person making a knowingly false accusation regarding sexual harassment will likewise be subject to disciplinary action.

This policy does not increase or diminish the ability of the District or the parties to exercise any other rights under existing law. ²⁹

Retaliation Prohibited ³⁰

The District prohibits any form of retaliation against anyone who, in good faith, has made a report or complaint, assisted, or participated or refused to participate in any manner in a proceeding under this policy. Any person should report claims of retaliation using Board policy 2:260, *Uniform Grievance Procedure*. ³¹

Any person who retaliates against others for reporting or complaining of violations of this policy or for participating in any manner under this policy will be subject to disciplinary action, up to and including discharge, with regard to employees, or suspension and expulsion, with regard to students.

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972; 34 C.F.R. Part 106.
Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).
Gebser v. Lago Vista Independent Sch. Dist., 524 U.S. 274 (1998).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 5:100 (Staff Development Program), 5:120 (Employee Ethics; Code of Professional Conduct); and Conflict of Interest), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 7:10 (Equal Educational Opportunities), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior)

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

²⁸ See sample policies 7:190, *Student Behavior*, and 7:230, *Misconduct by Students with Disabilities*. See also sample policies 7:200, *Suspension Procedures*, and 7:210, *Expulsion Procedures*, for due process requirements when student suspension or expulsion is recommended following a determination of responsibility for Title IX sexual harassment.

²⁹ Examples of rights the district or parties may exercise ancillary to this Title IX sexual harassment grievance procedure include, but are not limited to: disciplinary processes for suspensions and expulsions of students under 105 ILCS 5/10-22.6; tenured teacher dismissal proceedings under 105 ILCS 5/24-12; any other pre-termination process required by an applicable collective bargaining agreement, employment policy or procedure, or employment contract; and student appeal of a sex equity grievance decision under 23 Ill. Admin. Code §200.40 (see sample policy 7:10, *Equal Educational Opportunities*).

³⁰ 34 C.F.R. §106.71.

³¹ Retaliation complaints must be processed under policy 2:260, *Uniform Grievance Procedure*, because they are covered under the district's grievance procedure for resolving non-sexual harassment Title IX complaints. See 34 C.F.R. §106.8(c). Title IX sexual harassment regulations state that "[c]omplaints alleging retaliation may be filed according to the grievance procedures for sex discrimination required to be adopted under §106.8(c)." 34 C.F.R. §106.71.

General School Administration

Goals and Objectives ¹

The Superintendent directs the administration in the management of the School District and to facilitate the implementation of a quality educational program in alignment with School Board policy 1:30, *School District Philosophy*. Specific goals and objectives are to:

1. Provide educational expertise.
2. Plan, organize, implement, and evaluate educational programs that will provide for students' mastery of the Illinois Learning Standards. ²
3. Meet or exceed student performance and academic improvement goals established by the Board. ³
4. Develop and maintain channels for communication between the school and community.
5. Develop an administrative procedures manual and handbooks for personnel and students that are in alignment with Board policy. ⁴
6. Manage the District's fiscal and business activities to ensure financial health, cost-effectiveness, and protection of the District's assets.
7. Provide for the proper use, reasonable care, and appropriate maintenance of the District's real and personal property, including buildings, equipment, and supplies.

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

¹ This policy provides an opportunity for a board to give the superintendent a big picture of its vision for the district by identifying some high-level goals. While [sample](#) policy 1:30, *School District Philosophy*, contains the district's mission statement, i.e., why the district exists, this policy contains progress expectations and desired results, i.e., goals. This policy is designed to contain goals for which the administration will be responsible, including goals concerning finances, instruction, property, connecting with the community, etc. The list of goals should be replaced with the board's goals and objectives for school administration, if any.

This policy is in alignment with State law. The superintendent and principal's general duties are listed in 105 ILCS 5/10-21.4 and 5/10-21.4a, respectively. See also 105 ILCS 5/10-16.7.

² See the State Goals for Learning [and Learning Standards](#), 23 Ill.Admin.Code §1, Appendix D, [amended at 43 Ill.Reg. 3799](#).

³ School administrators may be employed under a multi-year contract only if it is performance-based and contains goals and indicators of student performance and academic improvement. 105 ILCS 5/10-23.8 and 5/20-23.8a. Principal evaluations must use data and indicators on student growth as a significant factor. 105 ILCS 5/24A-15(c). Thus, a policy statement that administrative staff shall "meet or exceed student performance and academic improvement goals" is consistent with legal requirements.

⁴ Staff and student handbooks provide a means to distribute important information and are referenced in many sample policies and procedures. Members of the Ill. Principals Assoc. may subscribe to its Model Student Handbook Service. While this service is not a handbook *per se*, it provides principals with quick, user-friendly access to model student handbook provisions that are attorney drafted and fully aligned with IASB's policy services. For more information, see:

www.ilprincipals.org/mshwww.ilprincipals.org/resources/model-student-handbook.

LEGAL REF.: 105 ILCS 5/10-16.7, 5/10-21.4, and 5/10-21.4a.

CROSS REF.: 1:30 (School District Philosophy), 2:20 (Powers and Duties of the School Board; Indemnification), 2:130 (Board Superintendent Relationship), 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 3:60 (Administrative Responsibility of the Building Principal), 6:10 (Educational Philosophy and Objectives)

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General School Administration

Administrative Personnel Other Than the Superintendent ¹

Duties and Authority

The School Board establishes District administrative and supervisory positions in accordance with the District’s needs and State law. This policy applies to all administrators other than the Superintendent, including without limitation, Building Principals. The general duties and authority of each administrative or supervisory position are approved by the Board, upon the Superintendent’s recommendation, and contained in the respective position’s job description.² In the event of a conflict, State law and/or the administrator’s employment agreement shall control.

Qualifications

All administrative personnel shall be appropriately licensed and shall meet all applicable requirements contained in State law and Illinois State Board of Education rules.³

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

¹ State or federal law controls this policy’s content. 105 ILCS 5/10-23.8a requires each principal, assistant principal, and other school administrator to be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights, or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators.

² Job descriptions are advisable, but optional. See [sample](#) policy 5:30, *Hiring Process and Criteria*, for a discussion of job descriptions. An Ill. State Board of Education (ISBE) rule (23 Ill.Admin.Code §1.310) allows *divided service*, meaning that a superintendent or principal may be employed by two school districts or serve in two professional capacities provided that full-time equivalency results in a maximum of one full-time position. In districts with an enrollment of 100 or fewer, an individual may serve as superintendent/principal and teach up to one-half day.

³ 105 ILCS 5/21B-20 and 5/21B-25 govern Professional Educator Licenses and administrative, principal, and chief school business official endorsements. The requirements for supervisory or administrative staff are in 23 Ill.Admin.Code §1.705; the requirements for endorsements are in 23 Ill.Admin.Code Part 25, Subpart E. Standards for Administrative Endorsements are in 23 Ill.Admin.Code Part 29.

The following option may be added at the end of this paragraph:

Administrative personnel must reside in the District within a specified period as provided in their initial employment agreement.

State law (105 ILCS 5/24-4.1) prohibiting residency requirements for teachers does not apply to non-instructional personnel, e.g., assistant principals. *Owen v. Kankakee Sch. Dist.*, 261 Ill.App.3d 298 (3rd. Dist. 1994). A board may impose residency requirements on a principal or assistant principal only if the individual’s initial contract with the district made residency an express condition of employment or continued employment as a principal. 105 ILCS 5/10-21.4a. Residency within a district may not be considered in determining a principal’s compensation, assignment, or transfer. Id.

Evaluation

The Superintendent or designee shall evaluate all administrative personnel and make employment and salary recommendations to the Board. ⁴

Administrators shall annually present evidence to the Superintendent of professional growth through attendance at educational conferences, additional schooling, in-service training, and Illinois Administrators' Academy courses, or through other means as approved by the Superintendent. ⁵

Administrative Work Year

The work year for administrators shall be the same as the District's fiscal year, July 1 through June 30, unless otherwise stated in the employment agreement. In addition to legal holidays, administrators shall have vacation periods as approved by the Superintendent. All administrators shall be available for work when their services are necessary. ⁶

Compensation and Benefits

The Board and each administrator shall enter into an employment agreement that complies with Board policy and State law.⁷ The terms of an individual employment contract, when in conflict with this policy, will control.

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⁴ All licensed school district employees must be evaluated. 105 ILCS 5/24A-1, 23 Ill.Admin.Code §1.320. Each district must implement a performance evaluation plan for its principals and assistant principals. 105 ILCS 5/24A-15, amended by P.A. 102-729; 23 Ill.Admin.Code §50.300. The statutory deadline for evaluating principals and assistant principals depends on whether the individual's employment contract is for one year or multiple years: (1) the evaluation of individuals on a single year contract must take place annually by March 1, and (2) the evaluation of individuals on a multi-year contract must take place by March 1 of the contract's final year. 105 ILCS 5/24A-15, amended by P.A. 102-729. Individual contracts may require an earlier deadline. For the 2022-2023 school year only, if the Governor has declared a disaster due to a public health emergency, districts have the option to waive the evaluation requirement of principals and assistant principals who received either excellent or proficient ratings during the last school year in which they were evaluated, as long as the Governor's disaster declaration remained in effect. Id. 105 ILCS 5/24A-3 requires that an individual who conducts an evaluation of a teacher, principal, or assistant principal, (1) be prequalified before undertaking any evaluation, and (2) participate in a regularly scheduled retraining program.

⁵ The professional growth reporting requirements in this paragraph are optional. However, professional development activities are required for license renewal. 105 ILCS 5/21B-45, contains the license renewal process, along with the professional development hours and carry over of these hours.

A school board must require the administrators who evaluate employees to complete training on the evaluation of licensed personnel that is provided or approved by ISBE. 105 ILCS 5/24A-3 and 5/24A-20(a)(4). Any prequalification process or retraining program developed and used by a school district must, at a minimum, meet the requirements of 23 Ill.Admin.Code Part 50, Subpart E. Administrative personnel must participate in this training (1) before they evaluate, and (2) at least once during each certificate renewal cycle. 105 ILCS 5/24-3.

⁶ Legal holidays are provided by 105 ILCS 5/24-2, amended by P.A.s 101-642 (2020 Election Day), 102-15 (2022 Election Day), and 102-14, ~~eff. 1-1-22~~, and 102-334, (both establishing Juneteenth National Freedom Day).

⁷ According to 105 ILCS 5/10-23.8a, a principal, assistant principal, and any other school administrator must be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights, or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators.

The employment contract should be *in writing* even though the School Code does not require it to be written. Contact the board attorney for assistance. An administrator who is not working under a written contract is presumed to have a contract of one year's duration. Schaumburg Cmty. Consol. Sch. Dist. v. TRS, 984 N.E.2d 66 (4th Dist. 2013)(interpreting 105 ILCS 5/10-23.8a). The Ill. Statute of Frauds may make it impossible to execute an *oral* multi-year administrator contract or to *orally* extend a multi-year written contract. 740 ILCS 80/1.

The Board will consider the Superintendent's recommendations when setting compensation for individual administrators. These recommendations should be presented to the Board no later than the March Board meeting or at such earlier time that will allow the Board to consider contract renewal and nonrenewal issues.⁸

Unless stated otherwise in individual employment contracts, all benefits and leaves of absence available to teaching personnel are available to administrative personnel.⁹

LEGAL REF: 105 ILCS 5/10-21.4a, 5/10-23.8a, 5/10-23.8b, 5/21B, and 5/24A.
23 Ill.Admin.Code §§1.310, 1.705, and 50.300; and Parts 25 and 29.

CROSS REF: 3:60 (Administrative Responsibility of the Building Principal), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:30 (Hiring Process and Criteria), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; [Code of Professional Conduct](#); and Conflict of Interest), 5:150 (Personnel Records), 5:210 (Resignations), 5:250 (Leaves of Absence), 5:290 (Employment Termination and Suspensions)

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The Open Meetings Act requires all Ill. Municipal Retirement Fund (IMRF) employers, which includes school boards, to: (1) within six business days after approving a budget, web-post each employee's total compensation package if it exceeds \$75,000 per year; and (2) at least six days before approval, web-post an employee's total compensation package if it is \$150,000 or more. 5 ILCS 120/7.3. Conflicting opinions concern whether school districts must comply with these posting requirements for their employees who do not participate in IMRF. Contact the board attorney for advice.

Annually by Oct. 1, each school board must report to ISBE the base salary and benefits of the superintendent, administrators, and teachers it employs. 105 ILCS 5/10-20.47. Before this annual reporting to ISBE, the information must be presented at a regular school board meeting and then posted on the district's website, if any.

⁸ State law does not address when the board should consider salary issues. The March deadline was chosen because the statutory notice deadline for reclassification is April 1 of the year in which a principal or assistant principal's contract expires unless the contract provides for an earlier deadline. 105 ILCS 5/10-23.8b. Alternatively, the policy could require that recommendations be presented "in a timely manner."

⁹ State law does not require that administrative and teaching personnel receive identical benefits and leaves of absence, but it does set the minimum in days and type for all ~~certificated~~ licensed personnel.

General School Administration

Administrative Responsibility of the Building Principal ¹

Duties and Authority

The School Board, upon the recommendation of the Superintendent, employs Building Principals as the chief administrators and instructional leaders of their assigned schools, and may employ Assistant Principals. The primary responsibility of a Building Principal is the improvement of instruction.² Each Building Principal shall perform all duties as described in State law as well as such other duties as specified in his or her employment agreement or as the Superintendent may assign, that are consistent with the Building Principal's education and training.³ Each Building Principal and Assistant Principal shall complete State law requirements to be a prequalified evaluator before conducting an evaluation of a teacher or assistant principal.⁴

Evaluation Plan

The Superintendent or designee shall implement an evaluation plan for Principals and Assistant Principals that complies with Section 24A-15 of the School Code and relevant Illinois State Board of

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¹ State or federal law controls this policy's content.

² Required by 105 ILCS 5/10-21.4a.

³ An alternative follows: "...or as agreed upon by the Building Principal and Superintendent."

The principal's duties are generally described in 105 ILCS 5/10-21.4a and 5/24A-15(c-5). However, many other statutes impose additional duties, e.g., 105 ILCS 127/2 (requires principals to report to the police certain violations of the Cannabis Control Act, Controlled Substance Act, and Methamphetamine Control and Community Protection Act occurring at specified locations); 105 ILCS 5/10-27.1A(b) (requires the principal or designee to immediately notify local law enforcement upon receiving a report of a person in possession of a firearm on school grounds, and, if that person is a student, to notify a student's parent/guardian); and 730 ILCS 152/ and 154/ (require notification to parents/guardians that information about sex offenders and violent offenders against youth is available). The county clerk may appoint high school principals or their designees as deputy registrars to accept voter registrations of any qualified resident of the State. 10 ILCS 5/4-6.2(a). The Firearm Concealed Carry Act requires a principal to notify the Ill. Dept. of State Police whenever he or she determines that a student (or any person) poses a "clear and present danger to himself, herself or to others." 430 ILCS 66/105; 405 ILCS 5/6-103.3. Lawyers disagree whether this requirement violates the federal Family Educational Rights and Privacy Act. Contact the board attorney for advice.

⁴ This restates 105 ILCS 5/24A-3 and 23 Ill.Admin.Code Part 50, Subpart E. Individuals who evaluate teachers, principals, or assistant principals must: (1) be prequalified, and (2) participate in a regularly scheduled retraining program. The prequalification and retraining programs must be either developed or approved by the Ill. State Board of Education (ISBE).

105 ILCS 5/24A-5 permits a first-year principal to evaluate a teacher; however, a new two-year evaluation plan must be established for any tenured teacher who is evaluated by a first-year principal. 105 ILCS 5/24A-5.

Anyone who has not previously been a principal in Ill. must participate in ISBE's *new principal mentoring program*; however, implementation of a principal mentoring program in any given year is dependent upon an appropriation. If appropriations are not likely sufficient to serve all anticipated first-year principals in any given year, the program is voluntary. Mentoring services are extended to second-year principals only if appropriations are sufficient to serve all first-year principals. If mentoring services are extended to second-year principals but appropriations are not sufficient to serve all second-year principals who wish to participate in the new principal mentoring program, then priority access to mentoring services is provided to second year principals who are in the highest need schools as determined by the State Superintendent of Education. 105 ILCS 5/2-3.53a, amended by P.A. 102-521 (adding, subject to annual appropriation, a competitive grant program to support the new principal mentoring program for districts to participate in); 23 Ill.Admin.Code Part 35. Annually by June 1, each superintendent must report to the State Superintendent or designee the expected number of first-year and second-year principals along with information specified in 23 Ill.Admin.Code §35.20.

Education rules.⁵ Using that plan, the Superintendent or designee shall evaluate each Building Principal and Assistant Principal.⁶ The Superintendent or designee may conduct additional evaluations.

Qualifications and Other Terms and Conditions of Employment

Qualifications and other terms and conditions of employment are found in Board policy 3:50, *Administrative Personnel Other Than the Superintendent*.

LEGAL REF.: 105 ILCS 5/2-3.53a, 5/10-20.14, 5/10-21.4a, 5/10-23.8a, 5/10-23.8b, and 5/24A-15.
10 ILCS 5/4-6.2, Election Code.
105 ILCS 127/, School Reporting of Drug Violations Act.
23 Ill.Admin.Code Parts 35 and 50, Subpart D.

CROSS REF.: 3:50 (Administrative Personnel Other Than the Superintendent), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; [Code of Professional Conduct](#); and Conflict of Interest), 5:150 (Personnel Records), 5:210 (Resignations), 5:250 (Leaves of Absence), 5:290 (Employment Termination and Suspensions)

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

⁵ Each district must implement a performance evaluation plan for its principals and assistant principals. 105 ILCS 5/24A-15, [amended by P.A. 102-729](#); 23 Ill.Admin.Code §50.300. A board may substitute this alternative for the first sentence: “The Superintendent or designee shall implement a principal and assistant principal evaluation plan that complies with State law.” The statutory deadline for evaluating principals and assistant principals depends on whether the individual’s employment contract is for one year or multiple years: (1) the evaluation of individuals on a single-year contract must take place annually by March 1, and (2) the evaluation of individuals on a multi-year contract must take place by March 1 of the contract’s final year. 105 ILCS 5/24A-15, [amended by P.A. 102-729](#). Individual contracts may require an earlier deadline. [For the 2022-2023 school year only, if the Governor has declared a disaster due to a public health emergency, districts have the option to waive the evaluation requirement if certain conditions were met. See sample policy 3:50, *Administrative Personnel Other than the Superintendent*, at f/n 4 for more information. Id.](#)

⁶ Required by 105 ILCS 5/10-21.4a and 5/24A-15, [amended by P.A. 102-729](#). For a principal who also serves as the district superintendent, the evaluator must be appointed by the ~~board~~~~school~~ and not be the person whose performance as principal is being evaluated. 23 Ill.Admin.Code §50.300(b). In addition, the evaluator must hold a valid professional educator license endorsed for superintendent issued under Article 21B and have completed the prequalification process and any retraining, as applicable. [Id.](#) Add this option if appropriate: “...or, in the absence of the Superintendent or his or her designee, an individual appointed by the ~~School~~ Board who holds a valid professional educator license endorsed for superintendent.”

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Operational Services

Fiscal and Business Management ¹

The Superintendent is responsible for the School District's fiscal and business management.² This responsibility includes annually preparing and presenting the District's statement of affairs to the School Board and publishing it before December 1 as required by State law.³

The Superintendent shall ensure the efficient and cost-effective operation of the District's business management using computers, computer software, data management, communication systems, and electronic networks, including electronic mail, the Internet, and security systems. Each person using the District's electronic network shall complete an *Authorization for Access to the District's Electronic Network*.⁴

Budget Planning

The District's fiscal year is from July 1 until June 30.⁵ The Superintendent shall present to the Board, no later than the first regular meeting in August, a tentative budget with appropriate explanation.⁶ This budget shall represent the culmination of an ongoing process of planning for the fiscal support needed for the District's educational program. The District's budget shall be entered upon the Ill. State Board of Education's (ISBE) *School District Budget Form*.⁷ To the extent possible, the tentative budget shall be balanced as defined by ISBE guidelines. The Superintendent shall complete a tentative deficit reduction plan if one is required by ISBE guidelines.⁸

Preliminary Adoption Procedures

After receiving the Superintendent's proposed budget, the Board sets the date, place, and time for:

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¹ State or federal law controls this policy's content. Article 17 of the School Code controls budgeting, tax [levys/levies](#), and tax warrants.

² Boards are authorized to hire a chief school business official. 105 ILCS 5/10-22.23a. Districts having a chief school business official may want to replace "Superintendent" with "Chief School Business Official" throughout this policy.

³ 105 ILCS 5/10-17.

⁴ See exhibits 6:235-AP1, E1, *Student Authorization for Access to the District's Electronic Networks*, and 6:235-AP1, E2, *Staff Authorization for Access to the District's Electronic Networks*. Use of electronic networks in the curriculum is covered in [sample](#) policy 6:235, *Access to Electronic Networks*.

⁵ The board sets the fiscal year (105 ILCS 5/17-1) and this sentence should reflect that local decision. If the board sets an alternative fiscal year, State law provides, "If the beginning of the fiscal year of a district is subsequent to the time that the tax levy due to be made in such fiscal year shall be made, then such annual budget shall be adopted prior to the time such tax levy shall be made." *Id.* Consult the board attorney for guidance on the impact of an alternative fiscal year on the deadlines in this policy.

⁶ The board must designate a person(s) to prepare a tentative budget. 105 ILCS 5/17-1. The purpose of this policy's directive for the superintendent to present a tentative budget "no later than the first regular meeting in August" is to ensure that the budget can be adopted by September 30 (see f/n 13). A board may amend this directive to give the superintendent additional flexibility by requiring him or her to present a tentative budget "during a regular Board meeting in August."

⁷ Required by 105 ILCS 5/17-1. See www.isbe.net/Pages/School-District-Joint-Agreement.aspx.

⁸ *Id.* The budget instructions from ISBE detail when a deficit reduction plan must be completed. State law requires the budget to be balanced and, if not, a three-year deficit reduction plan must be developed.

1. A public hearing on the proposed budget,⁹ and
2. The proposed budget to be available to the public for inspection. ¹⁰

The Board Secretary shall arrange to publish a notice in a local newspaper stating the date, place, and time of the proposed budget's availability for public inspection and the public hearing.¹¹ The proposed budget shall be available for public inspection at least 30 days before the time of the budget hearing.

At the public hearing, the proposed budget shall be reviewed, including the cash reserve balance of all funds held by the District related to its operational levy and, if applicable, any obligations secured by those funds,¹² and the public shall be invited to comment, question, or advise the Board. ¹³

Final Adoption Procedures

The Board adopts a budget before the end of the first quarter of each fiscal year, September 30, or by such alternative procedure as State law may define.¹⁴ To the extent possible, the budget shall be balanced as defined by ISBE; if not balanced, the Board will adopt a deficit reduction plan to balance the District's budget within three years according to ISBE requirements. ¹⁵

The Board adopts the budget by roll call vote. The budget resolution shall be incorporated into the meeting's official minutes. Board members' names voting *yea* and *nay* shall be recorded in the minutes. ¹⁶

The Superintendent or designee shall perform each of the following:

1. Post the District's final annual budget, itemized by receipts and expenditures, on the District's Internet website; notify parents/guardians that it is posted and provide the website's address. ¹⁷
2. File a certified copy of the budget resolution and an estimate of revenues by source anticipated to be received in the following fiscal year, certified by the District's Chief Fiscal Officer, with the County Clerk within 30 days of the budget's adoption. ¹⁸

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⁹ At least one public hearing must be held before final action is taken on the budget. 105 ILCS 5/17-1.

¹⁰ The tentative budget must be conveniently available for public inspection for at least 30 days before final action on the budget. 105 ILCS 5/17-1.

¹¹ 105 ILCS 5/17-1 makes the board secretary responsible for this public notice at least 30 days before the hearing. If there is no newspaper published in the district, notice must be given by posting notices in five of the most public places in the district. 105 ILCS 5/17-1.

¹² 105 ILCS 5/17-1.3, added by P.A. 102-895, requires districts to disclose this cash reserve balance information "at the public hearing at which the district certifies its budget and levy for the taxable year." The statute does not specify the manner in which the disclosure must be made; for ease of administration, this sample policy manages disclosure at the budget hearing by including it in the budget review. To provide evidence of compliance, consider as a best practice recording this disclosure in the board meeting minutes and/or presenting it in writing. The term *operational levy* is not defined in the statute, but it may refer to a district's *operating funds*, which ISBE rules define as the Educational, Operations and Maintenance, Transportation, and Working Cash funds. 23 Ill. Admin.Code §100.20. Consult the board attorney for guidance.

¹³ State law does not address what transpires during the budget hearing. See f/n 12, above, regarding disclosure of cash reserves at the budget hearing as a means to comply with 105 ILCS 5/17-1.3, added by P.A. 102-895.

¹⁴ Required by 105 ILCS 5/17-1 and 5/17-3.2. See f/n 5.

¹⁵ Required by 105 ILCS 5/17-1. See f/n 8.

¹⁶ Required by 105 ILCS 5/10-7.

¹⁷ Required by 105 ILCS 5/17-1.2, *only if* the district has a website. Delete this sentence unless the district has a website.

3. Ensure disclosure to the public of the cash reserve balance of all funds held by the district related to its operational levy and, if applicable, any obligations secured by those funds, at the public hearing¹⁹ at which the Board certifies its operational levy.

3.4. Make all preparations necessary for the Board to timely file its Certificate of Tax Levy, including preparations to comply with the Truth in Taxation Act; file the Certificate of Tax Levy with the County Clerk on or before the last Tuesday in December. The Certificate lists the amount of property tax money to be provided for the various funds in the budget.

4.5. Submit the annual budget, a deficit reduction plan if one is required by ISBE guidelines, and other financial information to ISBE according to its requirements. ²⁰

Any amendments to the budget or Certificate of Tax Levy shall be made as provided in the School Code and Truth in Taxation Act. ²¹

Budget Amendments

The Board may amend the budget by the same procedure as provided for in the original adoption. ²²

Implementation

The Superintendent or designee shall implement the District's budget and provide the Board with a monthly financial report that includes all deficit fund balances. The amount budgeted as the expenditure in each fund is the maximum amount that may be expended for that category, except when a transfer of funds is authorized by the Board.

The Board shall act on all interfund loans²³, interfund transfers²⁴, transfers within funds²⁵, and transfers from the working cash fund or abatements of it, if one exists. ²⁶

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¹⁸ Required by 35 ILCS 200/18-50, which refers to "appropriation and budget ordinances or resolutions." School districts adopt budgets by board resolution. The budget serves as the district's appropriation.

¹⁹ Required by 105 ILCS 5/17-1.3, added by P.A. 102-895. Consult the board attorney about the meaning of the public hearing for the levy and if the disclosure must always be made at the board meeting at which the board certifies the district's levy, or only in those instances where notice and a public hearing are required by the Truth in Taxation Law. 35 ILCS 200/18-70. Similar to the disclosure of cash reserves made at the budget hearing, a district may want to manage compliance for the levy hearing by incorporating the information into the presentation of the levy at the board meeting. See f/n 12, above.

²⁰ Required by 105 ILCS 5/17-1.

²¹ 105 ILCS 5/17-11 and 35 ILCS 200/18-55 et seq.

²² 105 ILCS 5/17-1; 23 Ill.Admin.Code Part 100.

²³ 105 ILCS 5/10-22.33, 5/20-4, 5/20-5, 5/20-8, and 5/20-10 and 23 Ill.Admin.Code §100.50. If the district loans money from the working cash fund to another fund, Section 5/20-10 requires the district to maintain a credit to the working cash fund (meaning that borrowing fund must repay the working cash fund).

²⁴ 105 ILCS 5/17-2A, amended by P.A.s 102-671 and 102-895, contains the requirements for a permanent transfer. P.A.102-~~895~~⁶⁷¹ extended the time period during which a district may transfer money from specified funds for any purpose through June 30, 202~~6~~⁴.

²⁵ Transfers between the various items in any fund may not exceed in the aggregate ten percent of the total of such fund as set forth in the budget. If the aggregate exceeds 10%, the board must amend the budget. 105 ILCS 5/17-1.

²⁶ The purpose of the working cash fund is to enable the school district "to have in its treasury at all times sufficient money to meet demands for expenses." 105 ILCS 5/20-1. School officials, including board members, are liable "for any sum that may be unlawfully diverted from the working cash fund ...". 105 ILCS 5/20-6.

LEGAL REF.: 105 ILCS 5/10-17, 5/10-22.33, 5/17-1, 5/17-1.2, [5/17-1.3](#), 5/17-2A, 5/17-3.2, 5/17-11, 5/20-5, 5/20-8, and 5/20-10.
35 ILCS 200/18-55 et seq., [Truth in Taxation Law](#).
23 Ill.Admin.Code Part 100.

CROSS REF.: 4:20 (Fund Balances), 4:40 (Incurring Debt), 4:60 (Purchases and Contracts), 6:235 (Access to Electronic Networks)

ADMIN. PROC.: 6:235-AP1, E1 (Student Authorization for Access to the District’s Electronic Networks), 6:235-AP1, E2 (Staff Authorization for Access to the District’s Electronic Networks)

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105 ILCS 5/20-10 codified a long-held practice and understanding of Ill. school districts. A district may abate (reduce the funds) money from the working cash fund at any time and transfer it to any district fund or funds most in need of the money, provided that the district maintains an amount to the credit of the working cash fund. This was a legislative overturn of a case concluding that any permanent transfer, including abatements, of the working cash fund should be transferred only to the education fund. See [G.I.S. Venture v. Novak](#), 388 Ill.App.3d 184 (2nd Dist. 2009); [G.I.S. Venture v. Novak](#), 385 Ill.Dec. 430 (2nd Dist. 2014). Abolishments (deplete all funds) of the working cash fund must still be transferred to the education fund only.

Operational Services

Food Services ¹

Good nutrition shall be promoted in the District’s meal programs and in other food and beverages that are sold to students during the school day. The Superintendent shall manage a food service program that complies with this policy and is in alignment with School Board policy 6:50, *School Wellness*.

Food or beverage items sold to students as part of a reimbursable meal under federal law must follow the nutrition standards specified in the U.S. Dept. of Agriculture rules that implement the National School Lunch and Child Nutrition Acts. Schools being reimbursed for meals under these laws are *participating schools*. ²

The food service program in participating schools shall comply with the nutrition standards specified in the U.S. Dept. of Agriculture’s *Smart Snacks rules* when it offers competitive foods to students on the school campus during the school day.³ *Competitive foods* are all food and beverages that are offered by any person, organization or entity for sale to students on the school campus during the school day that are not reimbursed under programs authorized by federal law.⁴ The food service programs in participating schools shall also comply with any applicable mandates in the Illinois State Board of Education’s School Food Service rules implementing these federal laws and the Ill. School Breakfast and Lunch Program Act. ⁵

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¹ State or federal law controls this policy’s content. Districts that participate in programs under the National School Lunch Act and Child Nutrition Acts must establish policies and procedures as are necessary to ensure compliance with 7 C.F.R. §210.1(b).

The Ill. State Board of Education (ISBE) limits the sale of competitive food and beverages sold to students on the school campus of any school that participates in the School Breakfast Program or the National School Lunch Program. 23 Ill.Admin.Code §305.15(a).

This policy’s first sentence provides an opportunity for a school board to consider goals for the food service program and, if appropriate, amend the sentence. For example, a board may want to address the role of parents, alignment with curriculum, or the purpose of vending machines.

² 7 C.F.R. Parts 210 & 220.

³ Russell B. National School Lunch Act, 42 U.S.C. §1751 et seq., as amended by the Healthy Hunger-Free Kids Act of 2010 (P.L. 111-296); 7 C.F.R. §210.11(c).

⁴ 7 C.F.R. §210.11(a)(2); 23 Ill. Admin. Code §305.5.

⁵ [105 ILCS 125/5.5, added by P.A. 102-761, requires districts that participate in the National School Lunch Program to provide a plant-based school lunch option that complies with federal nutritional standards to those students who submit a prior request to the district for the option. Districts may, but are not required to, incorporate a plant-based option into their planned menu as a means of compliance. See ISBE’s *Dietary Accommodations* guidance, at: \[www.isbe.net/Documents/K-Accommodations.pdf\]\(http://www.isbe.net/Documents/K-Accommodations.pdf\).](#)

All revenue from the sale of any food or beverages sold in competition with the School Breakfast Program or National School Lunch Program to students in food service areas during the meal period shall accrue to the nonprofit school lunch program account.⁶

LEGAL REF.: 42 U.S.C. §1751 et seq., Russell B. National School Lunch Act.
42 U.S.C. §1771 et seq., Child Nutrition Act of 1966.
7 C.F.R. Parts 210 ([National School Lunch Program](#)) and 220 ([School Breakfast Program](#)), ~~Food and Nutrition Service~~.
105 ILCS 125/, [School Breakfast and Lunch Program Act](#).
23 Ill.Admin.Code Part 305, School Food Service.

CROSS REF.: 4:130 (Free and Reduced-Price Food Services), 6:50 (School Wellness)

DRAFT

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⁶ This paragraph addresses the federal *requirements for competitive food* in 7 C.F.R. §210.11(b). This rule requires state agencies (ISBE) and/or [school districts] to “establish such policies and procedures as are necessary to ensure compliance with [the federal rules]. State agencies and/or [school districts] may impose additional restrictions on competitive foods...”. ISBE’s implementing rule, 23 Ill.Admin.Code §305.15(~~de~~), imposes additional restrictions by requiring “the revenue from any food or beverage meeting the competitive food standards sold to students in food service areas during the meal period accrue to the nonprofit school lunch program account.”

Operational Services

Waiver of Student Fees ¹

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

Fees for textbooks, other instructional materials, and driver education, as well as fines for the loss or damage of school property are waived for students who meet the eligibility criteria for a ~~fee~~-waiver as described in this policy.² In order that no student is denied educational services or academic credit due to the inability of parents/guardians to pay student fees and fines, the Superintendent will recommend to the Board which additional fees and fines, if any, the District will waive for students

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¹ State law requires this subject matter be covered by policy and controls its content. 105 ILCS 5/10-20.13, amended by P.A.s 102-1032 and 102-805, eff. 1-1-23; 23 Ill.Admin.Code §1.245. Though 105 ILCS 5/10-20.13 has been amended by P.A.s 102-1032 and 102-805, eff. 1-1-23, the Illinois State Board of Education (ISBE) has yet to update its implementing rules at 23 Ill.Admin.Code §1.245 in response. Fees are "any monetary charge collected by a public school, public school district, or charter school from a student or the parents or guardian of a student as a prerequisite for the student's participation in any curricular or extracurricular program of the school or school district as defined [at 23 Ill.Admin.Code §1.245(1) and (2)]." 105 ILCS 5/1-3, amended by P.A. 102-805, eff. 1-1-23. State law provides that "[n]o discrimination or punishment of any kind, including, but not limited to: the lowering of grades, ~~or~~ exclusion from classes, or withholding of student records, transcripts, or diplomas may be exercised against a student because the student's whose parents or guardians are unable to purchase required textbooks or instructional materials or to pay required fees," 105 ILCS 5/28-19.2, amended by P.A. 102-805, eff. 1-1-23. This policy concerns an area in which the law is unsettled (see footnotes 2 and 3). If the fee waiver policy and/or procedures are substantively amended, then parents/guardians must be notified in writing within 30 calendar days following the adoption of the amendments. 23 Ill.Admin.Code §1.245(e).

² Districts must waive textbooks fees ~~(105 ILCS 5/10-20.13)~~ and all fees and fines for the loss of school property for students whose parents/guardians are unable to afford them and for homeless children and youth. 105 ILCS 5/10-20.13, amended by P.A.s 102-1032 and 102-805, eff. 1-1-23 driver education fees ~~(105 ILCS 5/27-24.2)~~ for students whose parents/guardians are unable to afford them. While districts are only required to waive fines for the loss of school property and not the damage of school property, this sample policy extends fine waivers to both for ease of implementation and to encourage students to return school property even if damaged (instead of claiming property is lost to avoid a fine).

In order to effectuate the law's intent, the term "textbook" should be interpreted broadly to include fees for instructional materials, laboratory fees, and workbooks. The enforceability of 105 ILCS 5/10-20.13(b) and ISBE regulations (23 Ill.Admin.Code §1.245) requiring districts to waive "other fees" is questionable because they are unfunded mandates. ISBE regulations on school fees may not be enforceable because the General Assembly failed to make necessary appropriations. See the Weekly Message from State Superintendent Robert Schiller, 8-15-03 (contact a PRESS Asst. Editor for a copy).

The textbook block grant program operated by ISBE is found at 105 ILCS 5/2-3.155, amended by P.A. 101-227.

A school district may charge up to \$50 to students who participate in the driver education course. The fee may be increased up to \$250, provided the district completes the requirements in Section 27-24.2. The fee must be waived for any student whose parent/guardian is unable to afford it pay. 105 ILCS 5/27-24.2; 23 Ill.Admin.Code §252.30.

Resident tuition fees are not permissible, but a board's authority under 105 ILCS 5/10-20.13 to charge for textbooks and towel fees does not violate the Ill. Constitution's provision guaranteeing free public education through the secondary level. Hamer v. Board of Ed., Sch. Dist. No. 109, 9 Ill.App.3d 663 (2nd Dist. 1973).

who meet the eligibility criteria for ~~fee~~ waiver.³ ~~Students receiving a fee waiver are not exempt from charges for lost and damaged books, locks, materials, supplies, and equipment.~~⁴

Notification

The Superintendent shall ensure that a notice of waiver applicability is provided to parents/guardians with every bill for fees and/or fines,⁵ and that applications for ~~fee~~-waivers are widely available and distributed according to State law and Ill. State Board of Education (ISBE) rule and that provisions for assisting parents/guardians in completing the application are available.

Eligibility Criteria

A student shall be eligible for a ~~fee~~ and fine waiver when:⁶

1. The student currently lives in a household that meets the same income guidelines, with the same limits based on household size, that are used for the federal free meals program;
2. The student's parents/guardians are veterans or active-duty military personnel with income at or below 200% of the federal poverty line; or
3. The student is homeless, as defined in the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11434a).

The Superintendent or designee will give additional consideration ~~when~~ one or more of the following factors are present:⁷

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³ 105 ILCS 5/10-20.13(b) was added by P.A. 83-603 in 1983 to require districts to waive "other fees" in addition to the costs of textbooks and then amended by P.A. 102-805, eff. 1-1-23, to waive "other fees and fines." P.A. 83-603. The General Assembly, however, never appropriated the necessary funds. Thus, the amendment may be unenforceable because it violated the State Mandates Act. 30 ILCS 805/1; see above footnote. Use the following alternative if the board wants to make a longstanding commitment to waive specific fees, amending the list of fees that will be waived as desired:

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

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

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

⁴ ~~The textbook block grant program operated by the ISBE is found at 105 ILCS 5/2-3.155, amended by P.A. 101-227, eff. 7-1-20.~~

⁵ Required by 105 ILCS 5/10-20.13(b), as amended by P.A. 102-805, eff. 1-1-23.

⁶ Required by 105 ILCS 5/10-20.13(b), amended by P.A.s 102-1032 and 102-805, eff. 1-1-23, to add numbers 2 and 3 as eligibility criteria. 105 ILCS 5/10-20.13(b), as amended by P.A. 102-1032, does not specify whether the income at or below 200% of the federal poverty line is the household income or solely the income of the veteran/active-duty military parent/guardian. Consult the board attorney for guidance.

Though 105 ILCS 5/10-20.13(b) was amended by P.A. 102-805, eff. 1-1-23, to make homeless students statutorily eligible for school fee and fine waivers, non-regulatory ISBE guidance states that students who are homeless, migrant, in foster care, runaway, or participating in Head Start are categorically eligible for school fee waivers. See www.isbe.net/Documents/guidance_reg.pdf.

~~The federal free meals program is found at 42 U.S.C. §1758; 7 C.F.R. Part 245. A board has a choice regarding verification—it may: (1) establish a process to determine eligibility for fee waivers that is completely independent of the federal free meals eligibility guidelines, or (2) tie the application for fee waivers to the free meals program and only ask for verification in accordance with the free or reduced price meals program. See www.isbe.net/Pages/School-Fee-Waivers.aspx for further explanation. This sample policy assumes that option #1 will be chosen but would allow for option #2 if the alternative is used in the Verification section.~~ See f/n 7.

⁷ This paragraph is optional and may be omitted.

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

Verification ⁸

The Superintendent or designee shall establish a process for determining a student's eligibility for a waiver of fees and fines in accordance with State law requirements. ~~The Superintendent or designee may require family income verification at the time an individual applies for a fee waiver and anytime thereafter, but not more often than once every 60 calendar days. The Superintendent or designee shall not use any information from this or any independent verification process to determine free or reduced-price meal eligibility.~~

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

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⁸ ~~Districts have two income verification options to determine eligibility for fee and fine waivers:~~ (1) establish an application process to determine eligibility for fee and fine waivers that is completely independent of a student's application for, eligibility for, or participation in the federal free meals ~~program~~ income guidelines, or (2) tie the application ~~process for fee and fine waivers~~ to the federal free meals program application and only ask for verification in accordance with the ~~free or reduced-price meals~~ program. 105 ILCS 5/10-20.13(c), amended by P.A.s 102-1032 and 102-805, eff. 1-1-23. See www.isbe.net/Pages/School-Fee-Waivers.aspx for further explanation. For option #1, see exhibit 4:140-E1, Application for Fee Waiver. For option #2, see exhibit 4:140-E2, Application for Fee Waiver Based on Federal Free Meals Program.

~~By using option #1 a process for determining eligibility for fee waivers that is completely separate from the process for determining eligibility for free meals, a district may require income verification at the time an application is submitted for a fee-waiver and may do so thereafter, but not more than once every 60 calendar days per academic year. 105 ILCS 5/10-20.13, as amended by P.A. 102-805, eff. 1-1-23; 23 Ill. Admin. Code §1.245(d). Income verification may include such things as payroll stubs, tax returns, or evidence of receipt of food stamps or Temporary Assistance for Needy Families.~~

An application ~~using option #1 for fee waivers that is completely separate from the application for free lunches~~ cannot ask whether a student lives in a household that meets free lunch eligibility guidelines and request income verification with reference to ~~free lunch~~ eligibility guidelines. ~~In the completely separate fee waiver application~~ Instead, the district should supply its own income guidelines with the same limits based on household size that are used for the federal meals program and have the parents/guardians indicate if they meet the income guidelines used to determine eligibility for ~~fee and fine waivers~~. The independent fee and fine waiver income guidelines should not be any higher than those for eligibility for free lunch (or reduced-price, if the district voluntarily provides fee and fine waivers for those students who qualify), but the district should not reference or indicate that the guidelines are for the free meals program. In this completely ~~separate independent waiver~~ application process ~~for fee waivers~~, the district may ask for verification, but cannot use any information it receives ~~for fee waiver verification~~ though this process for determining eligibility for free or reduced meals.

~~Alternatively, a board should replace both paragraphs in this section with the following alternative if it wants to use eligibility guidelines for free meals as the basis for waiving school fees: By using option #2,~~

~~The district Superintendent or designee must follow the verification requirements of the federal free meals program at 7 C.F.R. §245.6a when using the free lunch or breakfast eligibility guidelines pursuant to The National School Lunch Act as the basis for waiver of the student's fee(s). 105 ILCS 5/10-20.13(c), amended by P.A.s 102-1032 and 102-805, eff. 1-1-23.~~

~~Income verification may include such things as payroll stubs, tax returns, or evidence of receipt of food stamps or Temporary Assistance for Needy Families. 23 Ill. Admin. Code §1.245(d).~~

Determination and Appeal ⁹

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

LEGAL REF.: [42 U.S.C. §11434a, McKinney-Vento Homeless Assistance Act.](#)
105 ILCS 5/10-20.13, 5/10-22.25, 5/27-24.2, and 5/28-19.2.
23 Ill.Admin.Code §1.245 [may contain unenforceable provisions].

CROSS REF.: 4:130 (Free and Reduced-Price Food Services), [6:140 \(Education of Homeless Children\)](#), 6:220 (Bring Your Own Technology (BYOT) Program; Responsible Use and Conduct)

DRAFT

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⁹ An ISBE rule requires that the policy state that the district will mail a copy of a denial notice within 30 calendar days after the receipt of the waiver request. 23 Ill.Admin.Code §1.245(c)(3). This rule also specifies timelines and procedures, including a requirement that “the person who decides the appeal shall not be the person who initially denied the fee waiver or a subordinate of this person.” Thus, a board may be required to hear an appeal if the superintendent made the initial decision to deny a ~~fee~~-waiver. The board’s participation is avoided by the principal making initial ~~fee~~-waiver decisions and the superintendent or other main office administrator deciding the appeals.

Operational Services

Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors ¹

Child sexual abuse and grooming behaviors harm students, their parents/guardians, the District's environment, its school communities, and the community at large, while diminishing a student's ability to learn. The Board has a responsibility and obligation to increase awareness and knowledge of:² (1) issues regarding child sexual abuse, (2) likely warning signs that a child may be a victim of sexual abuse, (3) grooming behaviors related to child sexual abuse and grooming, (4) how to report child sexual abuse, (5) appropriate relationships between District employees and students based upon State law, and (6) how to prevent child sexual abuse.

To address the Board's obligation to increase awareness and knowledge of these issues, prevent sexual abuse of children,³ and define prohibited grooming behaviors,⁴ the Superintendent or designee

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¹ Required by *Erin's Law*, 105 ILCS 5/10-23.13, amended by P.A. 102-610. Also infused into this policy are concepts from ~~*Faith's Law*, 105 ILCS 5/22-85.5, added by P.A. 102-676HB 1975 text, which did not pass in the first half of the 102nd Ill. General Assembly; however, its content (a) includes the results of collaboration to implement some of the recommendations of the *Make Sexual and Severe Physical Abuse Fully Extinct (Make S.A.F.E.) Taskforce* and was endorsed by Stop Educator Sexual Abuse Misconduct & Exploitation (S.E.S.A.M.E.), a national organization working to prevent sexual exploitation, abuse, and harassment of students by teachers and other school staff, and (b) provides helpful guidance for districts to implement P.A. 102-610~~*Erin's Law* due to ~~its~~*P.A. 102-610's* vagueness. See ~~f/n~~s 1 and 15 in ~~sample policy 5:120, Employee Ethics; Code of Professional Conduct; and Conflict of Interest~~, for further information regarding ~~*Faith's Law*~~.

Three additional statutes address a district's responsibility to provide age-appropriate sexual abuse and assault awareness and prevention education programs:

1. 105 ILCS 110/3, Critical Health Problems and Comprehensive Health Education Act (requires districts to establish a Comprehensive Health Education Program that includes age-appropriate sexual abuse and assault awareness and prevention education in grades pre-K through 12) (see sample policy 6:60, *Curriculum Content*, and administrative procedure 6:60-AP1, *Comprehensive Health Education Program*);
2. 105 ILCS 5/27-9.1a(b), added by P.A. 102-552 (requires comprehensive personal health and safety and comprehensive sexual health education a/k/a National Sex Education Standards (NSES) to: (a) be age and developmentally appropriate, medically accurate, complete, culturally appropriate, inclusive, and trauma informed, (b) replicate evidence-based or evidence-informed programs or substantially incorporate elements of evidence-based programs or evidence-informed programs or characteristics of effective programs, (c) provide information about local resources where students can obtain additional information and confidential services related to sexual violence (including sexual abuse and assault), and (d) provide information about State laws related to mandated reporting of child abuse and neglect, and school policies addressing the prevention of and response to sexual violence) (see sample policy 6:60, *Curriculum Content*, and administrative procedure 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*); and
3. 105 ILCS 5/27-13.2 (addresses (a) written objections to sexual abuse prevention instruction and notice provisions (minimum five days) for students in grades K through 8, and (b) distribution by the Ill. State Board of Education (ISBE) and Ill. Dept. of Children and Family Services (DCFS) of information for districts to provide to their communities about this instruction) (see sample policy 6:60, *Curriculum Content*, and administrative procedure exhibit 6:60-AP1, E1, *Notice to Parents/Guardians of Sexual Abuse and Assault Awareness and Prevention Education; Requests to Examine Materials; Written Objection(s) and/or Opt-outs*).

² 105 ILCS 5/10-23.13, amended by P.A. 102-610, at (b)(1).

³ *Id.* at (b).

⁴ *Id.* at (b).

shall implement an Awareness and Prevention of Sexual Abuse and Grooming Behaviors Program. The Program will:

1. Educate students with:
 - a. An age-appropriate and evidence-informed health and safety education⁵ curriculum that includes methods for how to report child sexual abuse and grooming behaviors to authorities,⁶ through policy 6:60, *Curriculum Content*; ⁷
 - b. Information in policy 7:250, *Student Support Services*, about: (i) District counseling options, assistance, and intervention for students who are victims of or affected by sexual abuse,⁸ and (ii) community-based Children’s Advocacy Centers and sexual assault crisis centers and how to access those serving the District. ⁹
2. Train District employees about child sexual abuse and grooming behaviors by January 31 of each school year with materials that include: ¹⁰
 - a. A definition of prohibited grooming behaviors and employee-student boundary violations pursuant to policy 5:120, *Employee Ethics*; Code of Professional Conduct; and *Conflict of Interest*;
 - b. Evidence-informed¹¹ content on preventing, recognizing, reporting, and responding to child sexual abuse, grooming behaviors, and employee-student boundary violations pursuant to policies 2:260, *Uniform Grievance Procedure*; 2:265, *Title IX Sexual Harassment Grievance Procedure*; 5:90, *Abused and Neglected Child Reporting*; 5:100, *Staff Development Program*; and 5:120, *Employee Ethics*; Code of Professional Conduct; and *Conflict of Interest*; and
 - c. How to report child sexual abuse, grooming behaviors, and/or employee-student boundary violations pursuant to policies 2:260, *Uniform Grievance Procedure*; 2:265, *Title IX Sexual Harassment Grievance Procedure*; and 5:90, *Abused and Neglected Child Reporting*.

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⁵ *Id.* at (b)(1).

⁶ *Id.* at (b)(4).

⁷ 105 ILCS 5/10-23.13(b). See policy 6:60, *Curriculum Content*, and administrative procedure 6:60-AP1, *Comprehensive Health Education Program*, for information on school board choices related to health and safety education, including sex education.

⁸ *Id.* at (b)(2) and (3).

⁹ *Id.* at (b)(5). See policy 5:90, *Abused and Neglected Child Reporting*, and administrative procedure 5:90-AP, *Coordination with Children’s Advocacy Center*, for more information on Children’s Advocacy Centers.

¹⁰ Citations for each letter:

- a. 105 ILCS 5/10-23.13(b).
- b. *Id.* at (b), (b)(1.5), and (c).
- c. *Id.* at (b) and (b)(1.5).

¹¹ Two Illinois laws address “evidence-informed.” *Evidence-informed* per *Erin’s Law* means modalities that were created utilizing components of evidence-based treatments or curriculums. 105 ILCS 5/10-23.13(a), added by P.A. 102-610. Contrast with NSES at 105 ILCS 5/27-9.1a(a), added by P.A. 102-552, which defines an *evidence-informed program* as “a program that uses the best available research and practice knowledge to guide program design and implementation.”

3. Provide information to parents/guardians in student handbooks about the warning signs¹² of child sexual abuse, grooming behaviors, and employee-student boundary violations with evidence-informed educational information that also includes: ¹³
 - a. Assistance, referral, or resource information, including how to recognize grooming behaviors,¹⁴ appropriate relationships between District employees and students based upon policy 5:120, *Employee Ethics*; *Code of Professional Conduct*; and *Conflict of Interest*,¹⁵ and how to prevent child sexual abuse from happening;
 - b. Methods for how to report child sexual abuse, grooming behaviors, and/or employee-student boundary violations to authorities; and
 - c. Available counseling and resources for children who are affected by sexual abuse, including both emotional and educational support for students affected by sexual abuse, so that the student can continue to succeed in school pursuant to policy 7:250, *Student Support Services*.
4. Provide parents/guardians of students in any of grades K through 8 with not less than five days' written notice before commencing any class or course providing instruction in recognizing and avoiding sexual abuse, as well as the opportunity to object in writing. ¹⁶

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¹² 105 ILCS 5/10-23.13(b) and (b)(1); warning signs and *likely* warning signs are mentioned twice in the law. This policy uses *likely* in the purpose introduction. The Ill. Principals Association (IPA) maintains a handbook service that coordinates with **PRESS** material, Online Model Student Handbook (MSH), at: www.ilprincipals.org/resources/model-student-handbook.

¹³ This information is listed in 7:190-E2, *Student Handbook Checklist*. Citations for each letter:

- a. 105 ILCS 5/10-23.13(b) and (b)(1).
- b. *Id.* at (b)(4) and (5).
- c. *Id.* at (b).

¹⁴ Providing information to parents/guardians about how to recognize grooming behaviors is not in *Erin's Law*; it only addresses informing parents/guardians about the methods for increasing their awareness and knowledge of grooming behaviors. 105 ILCS 5/10-23.13(b)(1). This policy requires the district to provide information to parents/guardians about how to recognize grooming behaviors to: (1) effect the purpose of *Erin's Law*, (2) align with the intent of the statutes cited in f/n 1, above (educating all students to recognize and avoid sexual abuse and assault), and (3) align with the notification requirements in 105 ILCS 5/27-13.2 (parents/guardians of K-8 students prior to commencing instruction in recognizing and avoiding sexual abuse (see f/n 15, below)).

¹⁵ 105 ILCS 5/22-85.5(e), added by P.A. 102-676, requires the employee code of professional conduct policy be included in any staff, student or parent/guardian handbook provided by the district. See sample policy 5:120, *Employee Ethics: Code of Professional Conduct; and Conflict of Interest*, and 7:190-E2, *Student Handbook Checklist*.

¹⁶ Required by 105 ILCS 5/27-13.2. See 6:60-AP1, E1, Notice to Parents/Guardians of Sexual Abuse and Assault Awareness and Prevention Education; Requests to Examine Materials; Written Objection(s) and/or Opt-outs. Delete for high school districts.

LEGAL REF.: 105 ILCS 5/10-23.13, [5/22-85.5](#), 5/27-9.1a, and 5/27-13.2.
105 ILCS 110/3, Critical Health Problems and Comprehensive Health Education Act.
325 ILCS 5/, Abused and Neglected Child Reporting Act.
720 ILCS 5/11-25, Criminal Code of 2012.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:90 (Abused and Neglected Child Reporting), 5:100 (Staff Development Program), 5:120 (Employee Ethics; [Code of Professional Conduct](#); and Conflict of Interest), 6:60 (Curriculum Content), 7:20 (Harassment of Students Prohibited), 7:250 (Student Support Services)

DRAFT

Operational Services

Targeted School Violence Prevention Program¹

Threats and acts of targeted school violence harm the District's environment and school community, diminishing students' ability to learn and a school's ability to educate. Providing students and staff with access to a safe and secure District environment is an important Board goal. While it is not possible for the District to completely eliminate threats in its environment, a Targeted School Violence Prevention Program (Program) using the collective efforts of local school officials, staff, students, families, and the community helps the District reduce these risks to its environment.

The Superintendent or designee shall develop and implement the Program.² The Program oversees the maintenance of a District environment that is conducive to learning and working by identifying, assessing, classifying, responding to, and managing threats and acts of targeted school violence. The

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¹ While this sample policy is optional, 105 ILCS 128/45, added by P.A. 101-455 and amended by P.A. 102-791, requires school districts to implement a threat assessment procedure "no later than 120 days after [8-26-19]" that may be part of a school board targeted school violence prevention policy. ~~Consult the board attorney regarding this implementation date.~~ Thus, regardless of whether the board adopts a policy, an administrative procedure must exist to comply with the law. See the first sentence in f/n 2 below. It contains items from *Threat Assessment in Virginia Public Schools: Model Policies, Procedures, and Guidelines*, Second Edition (August 2016), Virginia Center for School and Campus Safety, Virginia Dept. of Criminal Justice Services, at: www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/threat-assessment-model-policies-procedures-and-guidelinespdf.pdf. *Threat Assessment in Virginia Public Schools* is based upon a synthesis of established research and recognized standards of practice regarding threat assessment and management in school and workplace settings, including *Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates*, a ~~2002~~2004 publication of the U.S. Secret Service and the U.S. Dept. of Education, at: www.secretservice.gov/data/protection/ntac/ssi_guide.pdf www2.ed.gov/admins/lead/safety/threatassessmentguide.pdf. The July 2018 update of this document was renamed *Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence*, published by the U.S. Secret Service, at: www.dhs.gov/sites/default/files/publications/18_0711-USSS-NTAC-Enhancing-School-Safety-Guide.pdf www.secretservice.gov/sites/default/files/reports/2020-10/USSS-NTAC-Enhancing-School-Safety-Guide.pdf. See also *Averting Targeted School Violence*, a 2021 publication of the U.S. Dept. of Homeland Security and the U.S. Secret Service, at: www.secretservice.gov/sites/default/files/reports/2021-03/USSS%20Averting%20Targeted%20School%20Violence.2021.03.pdf.

Adopting a policy that addresses targeted school violence prevention provides (a) a way for boards to monitor that it is being done, and (b) an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Before adoption of this policy, each board may want to have a conversation with the superintendent to determine how local conditions and resources and current practices will support the full implementation requirements of 105 ILCS 128/45, added by P.A. 101-455 and amended by P.A. 102-791. Its goals and program will be most effective when they reflect local conditions and circumstances.

² To balance the requirement to implement a threat assessment procedure (105 ILCS 128/45, added by P.A. 101-455 and amended by P.A. 102-791) with the practicalities of managing a district and to align with the best practices outlined in IASB's *Foundational Principles of Effective Governance* (www.iasb.com/conference-training-and-events/training/training-resources/foundational-principles-of-effective-governance/www.iasb.com/pdf/found-prin.pdf), this sentence delegates the duty to implement a procedure to the superintendent. See 4:190-AP1, *Targeted School Violence Prevention Program*, for a sample implementation procedure. Ensuring school safety begins with establishing a comprehensive targeted school violence prevention program, which "includes forming a multidisciplinary threat assessment team, establishing central reporting mechanisms, identifying behaviors of concern, defining the threshold for law enforcement intervention, identifying risk management strategies, promoting safe school climates, and providing training to stakeholders." *Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence*, published by the U.S. Secret Service, at: www.secretservice.gov/sites/default/files/reports/2020-10/USSS-NTAC-Enhancing-School-Safety-Guide.pdf www.dhs.gov/sites/default/files/publications/18_0711-USSS-NTAC-Enhancing-School-Safety-Guide.pdf.

Program shall be part of the District's Comprehensive Safety and Security Plan, required by Board policy 4:170, *Safety*, and shall:

1. Establish a District-level School Violence Prevention Team to: (a) develop a District-level Targeted School Violence Prevention Plan, and (b) oversee the District's Building-level Threat Assessment Team(s). ³
2. Establish Building-level Threat Assessment Team(s)⁴ to assess and intervene with individuals whose behavior may pose a threat to safety. This team may serve one or more schools.
3. Comply with State and federal law and align with Board policies.

The Local Governmental and Governmental Employees Tort Immunity Act protects the District from liability. The Program does not: (1) replace the care of a physician licensed to practice medicine in all of its branches or a licensed medical practitioner or professional trained in violence prevention, assessments and counseling services, (2) extend beyond available resources within the District, (3) extend beyond the school day and/or school-sponsored events, or (4) guarantee or ensure the safety of students, District staff, or visitors. ⁵

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³ The establishment of threat assessment teams in K-12 public schools is Recommendation #1 of the *Recommendations of the Illinois Terrorism Task Force School Safety Working Group*, presented to the Office of the Governor on 4-5-18, at: www.iasb.com/safety/. Illinois higher education institutions have required threat assessment teams since the passage of the Campus Security Enhancement Act of 2008 (110 ILCS 12/20(b)(2), eff. 1-1-09) in response to the shootings that took place at Virginia Polytechnic Institute and State University on 4-16-07 and Northern Illinois University on 2-14-08.

⁴ 105 ILCS 128/45, added by P.A. 101-455 and amended by P.A. 102-791, requires school districts to establish a threat assessment team "no later than 180 days after [8-26-19]." ~~Consult the board attorney regarding this implementation date.~~ If a school district is unable to establish a threat assessment team with school district staff and resources, it may use a regional behavioral threat assessment and intervention team. Id. The district's threat assessment procedure and a list identifying the members of all district threat assessment teams must be filed with a local law enforcement agency and the regional office of education or appropriate intermediate service center before the start of each school year. 105 ILCS 128/45(b), amended by P.A. 102-791. See 4:190-AP2, *Threat Assessment Team (TAT)*, and its accompanying exhibits for further information on threat assessment teams and how to connect with a regional behavioral threat assessment team. Records concerning the work of the TAT, including but not limited to any threat assessment procedure, are exempt from disclosure under the Ill. Freedom of Information Act. 5 ILCS 140/7(l), added by P.A. 102-791.

⁵ **Consult the board attorney for guidance concerning liability in this area.** Except for cases of willful and wanton conduct, the Local Governmental and Governmental Employees Tort Immunity Act (TIA) likely protects districts from liability for failure to properly identify and/or respond to a student's behavior that results in injury or suicide. See 745 ILCS 10/3-108 and Grant v. Board of Trustees of Valley View School Dist. No. 365-U, 286 Ill.App.3d 642 (3rd Dist. 1997). Every situation is fact specific, and the issues require careful evaluation. A disclaimer, such as the one presented here, may not be sufficient. A district may take several actions, after discussion with its board attorney, to minimize liability, such as adding limiting phrases and ensuring other policies are followed.

In addition to the TIA, school officials and districts may also be entitled to qualified immunity in civil rights lawsuits that seek to hold them liable for a suicide. For further discussion, see f/n 143 in policy 7:290, *Suicide and Depression Awareness and Prevention*.

LEGAL REF.: 105 ILCS 5/10-20.14, 5/10-21.7, 5/10-27.1A, 5/10-27.1B, 5/24-24, and 5/27-23.7.
105 ILCS 128/, School Safety Drill Act.
745 ILCS 10/, Local Governmental and Governmental Employees Tort Immunity Act.
29 Ill.Admin.Code Part 1500.

CROSS REF.: 2:240 (Board Policy Development), 4:170 (Safety), 5:90 (Abused and Neglected Child Reporting), 5:100 (Staff Development Program), 5:230 (Maintaining Student Discipline), 6:65 (Student Social and Emotional Development), 6:270 (Guidance and Counseling Program), 7:140 (Search and Seizure), 7:150 (Agency and Police Interviews), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:250 (Student Support Services), 7:290 (Suicide and Depression Awareness and Prevention), 7:340 (Student Records), 8:30 (Visitors to and Conduct on School Property), 8:100 (Relations with Other Organizations and Agencies)

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General Personnel

Equal Employment Opportunity and Minority Recruitment¹

The School District shall provide equal employment opportunities² to all persons regardless of their race;³ color; creed; religion;⁴ national origin; sex;⁵ sexual orientation;⁶ age;⁷ ancestry; marital

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¹ Federal and State law (see the policy's Legal References) require that all districts have a policy on equal employment opportunities and control this policy's content. **This is a complex, confusing, and highly litigated area of the law; consult the board attorney for advice on the application of these laws to specific fact situations.**

² *Equal employment opportunities* apply to virtually all terms and conditions of employment, e.g., discharge, hire, promotion, pay, demotion, and benefits (see the policy's Legal References). The Ill. Constitution protects the following categories from discrimination in employment: race, color, creed, national ancestry, sex, and handicap. Art. I, §§17, 18, and 19. The Ill. Human Rights Act (IHRA) protects the following categories from discrimination in employment, whether *actual* or *perceived*: race, color, religion, sex, national origin, ancestry, age, marital status, physical or mental disability, military status, order of protection status, sexual orientation, pregnancy, unfavorable discharge from military service, ~~and arrest record, conviction record (unless authorized by law), citizenship status, and work authorization status.~~ 775 ILCS 5/1-102, amended by P.A.s 101-221 and 102-233; and 5/1-103, amended by P.A.s 101-221, 101-565, 102-362, 102-419, and 101-656; and 775 ILCS 5/2-103.1, added by P.A. 101-656. The IHRA requires employers to annually disclose to the Ill. Dept. of Human Rights (IDHR) certain information about adverse judgments and administrative rulings where there was a finding of sexual harassment or unlawful discrimination under any federal, State, or local law, as well as data regarding settlement agreements, if requested by an IDHR investigator. 775 ILCS 5/2-108, added by P.A. 101-221, scheduled to be repealed on 1-1-30.

The Equal Employment Opportunities Act (EEOA, a/k/a Title VII of the Civil Rights Act of 1964) prohibits discrimination because of an individual's race, color, religion, sex, or national origin. 42 U.S.C. §2000e *et seq.*, amended by The Lilly Ledbetter Fair Pay Act of 2009 (LLFPA), Pub.L. 111-2.

Under the Workplace Transparency Act (WTA) (820 ILCS 96/, added by P.A. 101-221), employers may not, as a condition of employment or continued employment, prevent prospective or current employees from making truthful statements or disclosures about alleged unlawful employment practices, including discrimination. *Id.* at 96/1-25.

The LLFPA clarifies that a discriminatory compensation decision or other practice occurs each time an employee is paid or receives a last benefits check pursuant to the discriminatory compensation decision as opposed to only from the time when the discriminatory compensation decision or other practice occurred. The Act has no legislative history available to define what the phrase *or other practice* might mean beyond a discriminatory compensation decision; however, in a guidance document, the U.S. Equal Employment Opportunity Commission (EEOC) states that practices "may include employer decisions about base pay or wages, job classifications, career ladder or other noncompetitive promotion denials, tenure denials, and failure to respond to requests for raises." See *Equal Pay Act of 1963 and Lilly Ledbetter Fair Pay Act of 2009* (2014), at: www.eeoc.gov/laws/guidance/equal-pay-act-1963-and-lilly-ledbetter-fair-pay-act-2009.

The Ill. Equal Pay Act of 2003 (EPA) offers additional protection by prohibiting the payment of wages to one sex less than the opposite sex or to an African-American less than a non-African-American *for the same or substantially similar work*. 820 ILCS 112/, amended by P.A. 101-177. The Ill. Dept. of Labor (IDOL) enforces the EPA. The EPA also prohibits employers from requesting or requiring applicants to disclose wage or salary history as a condition of being considered for employment or as a condition of employment. *Id.* at 112/10(b-5), added by P.A. 101-177. If an applicant voluntarily offers such information without prompting, an employer still cannot use that information in making an offer or determining future pay. See administrative procedure 5:30-AP1, *Interview Questions*, for sample permissible inquiries on this topic. Employers may seek wage or salary history from an applicant's current or former employer if that information is a matter of public record under the Freedom of Information Act (FOIA); however, districts that wish to undertake such searches should exercise caution; the fact a district seeks out publicly available wage information could still be used against it in a pay discrimination claim. *Id.* at 112/10(b-10), added by P.A. 101-177. Consult the board attorney for further guidance.

While not exhaustive, other laws protecting these and additional classifications are named in subsequent footnotes.

status;⁸ arrest record;⁹ military status; order of protection status;¹⁰ unfavorable military discharge;¹¹ citizenship status provided the individual is authorized to work in the United States;¹² work

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³ [The IHRA defines race to include traits associated with race, including, but not limited to, hair texture and protective hairstyles such as braids, locks, and twists. 775 ILCS 5/1-103\(M-5\), added by P.A. 102-1102, eff. 1-1-23. The law allows employers to implement dress codes or adopt grooming policies that include restrictions on attire, clothing, or facial hair to maintain workplace safety or food sanitation. 775 ILCS 5/2-102\(E-5\). Title VII does not have a definition of race, but EEOC guidance provides that “\[r\]ace discrimination includes discrimination on the basis of ancestry or physical or cultural characteristics associated with a certain race, such as skin color, hair texture or styles, or certain facial features.” See the EEOC’s *Questions and Answers about Race and Color Discrimination in Employment*, at: \[www.eeoc.gov/laws/guidance/questions-and-answers-about-race-and-color-discrimination-employment\]\(http://www.eeoc.gov/laws/guidance/questions-and-answers-about-race-and-color-discrimination-employment\).](#)

⁴ 775 ILCS 5/2-102 of the IHRA, amended by P.A.s ~~400-588~~ and 101-221 and 102-233, contains a *religious discrimination* subsection. It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee’s or prospective employee’s sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer’s business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. 775 ILCS 5/2-102(E-5). Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. *Id.*

In addition to the IHRA and the federal EEOA (discussed in f/n 2), see 775 ILCS 35/, Religious Freedom Restoration Act.

⁵ Discrimination on the basis of sex under the EEOA includes discrimination on the basis of sexual orientation or transgender status. *Bostock v. Clayton Cnty.*, 140 S.Ct. 1731 (2020); *Hively v. Ivy Tech*, 853 F.3d 339 (7th Cir. 2017). In addition to the IHRA and the federal EEOA (discussed in f/n 2), see Title IX of the Education Amendments of 1972 (Title IX). 20 U.S.C. §1681 *et seq.*; 34 C.F.R. Part 106. See [sample](#) policy 2:265, *Title IX Sexual Harassment Grievance Procedure*. The federal Equal Pay Act prohibits an employer from paying persons of one sex less than the wage paid to persons of the opposite sex for equal work. 29 U.S.C. §206(d). See f/n 2 above for more information on State equal pay protections, including on the basis of sex. The LLFPA defines *date of underpayment* as each time wages are underpaid. Employees have one year from the time they become aware of the underpayment to file a complaint with the IDOL. 820 ILCS 112/15(b).

⁶ *Sexual orientation* means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity; it does not include a physical or sexual attraction to a minor by an adult. 775 ILCS 5/1-103(O-1).

⁷ Age Discrimination in Employment Act (ADEA) (29 U.S.C. §621 *et seq.*), amended by LLFPA (see f/n 2). 29 C.F.R. Part 1625, amended the EEOC regulations under ADEA to reflect the U.S. Supreme Court’s decision in *General Dynamic Systems, Inc. v. Cline*, 540 U.S. 581 (2004), holding the ADEA ~~to~~ permits employers to favor older workers because of age. Thus, favoring an older person over a younger person is not unlawful discrimination, even when the younger person is at least 40 years old.

⁸ 105 ILCS 5/10-22.4 and 775 ILCS 5/1-103(Q), amended by P.A. 101-221. The term *marital status* means an individual’s legal status of being married, single, separated, divorced, or widowed. 775 ILCS 5/1-103(J). This statutory definition does not encompass the identity of one’s spouse. Thus, school districts may adopt no-spouse policies. *Boaden v. Dept. of Law Enforcement*, 171 Ill.2d 230 (Ill. 1996).

⁹ Districts may not make employment decisions on the basis of arrest history, but may use job-disqualifying criminal convictions provided specific conditions are met. 775 ILCS 5/2-103 and 5/2-103.1, added by P.A. 101-656. See f/n 18, below. The Job Opportunities for Qualified Applicants Act prohibits an employer from asking about a criminal record until the employer determines that the applicant is qualified for the position; however, this does not apply when employers are required to exclude applicants with certain criminal convictions from employment. School employers should limit their requests for criminal convictions to *job-disqualifying* convictions, as permitted by the IHRA. 775 ILCS 5/2-103.1, added by P.A. 101-656; 820 ILCS 75/15. See also the IDHR’s guidance, *Conviction Record Protection – Frequently Asked Questions*, at: www2.illinois.gov/dhr/Pages/ConvictionRecordProtectionFrequentlyAskedQuestions.aspx and the EEOC’s guidance, *Consideration of Arrest and Conviction Records in Employment Decisions (2012)*, at: www.eeoc.gov/laws/guidance/arrest_conviction.cfm.

¹⁰ 775 ILCS 5/1-103(Q), amended by P.A. 101-221. The term *order of protection status* means a person protected under an order of protection issued pursuant to the Ill. Domestic Violence Act of 1986 ([750 ILCS 60/](#)), Article 112A of the Code of Criminal Procedure of 1963 ([725 ILCS 5/112A-1.5](#)), the Stalking No Contact Order Act ([740 ILCS 21/](#)), the Civil No Contact Order Act ([740 ILCS 22/](#)), or an order of protection issued by a court of another state. 775 ILCS 5/1-103(K-5).

authorization status;¹³ use of lawful products while not at work;¹⁴ being a victim of domestic violence, sexual violence, gender violence, or any other crime of violence;¹⁵ genetic information;¹⁶ physical or mental handicap or disability, if otherwise able to perform the essential functions of the job with reasonable accommodation;¹⁷ pregnancy, childbirth, or related medical conditions;¹⁸ credit

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¹¹ *Military status* means a person's status on active duty or in status as a veteran in the U.S. Armed Forces, veteran of any reserve component of U.S. Armed Forces, or current member or veteran of the Ill. Army National Guard or Ill. Air National Guard. 775 ILCS 5/1-103(J-1). *Unfavorable military discharge* does not include those characterized as RE-4 or *dishonorable*. 775 ILCS 5/1-103(P). The Uniformed Services Employment and Reemployment Rights Act of 1994 prohibits employers from discriminating or retaliating against any person for reasons related to past, present, or future service in a *uniformed service*. 38 U.S.C. §4301 et seq.

¹² 775 ILCS 5/1-102(C). According to the Immigration Reform and Control Act of 1986, all employers must verify that employees are either U.S. citizens or authorized to work in the U.S. 8 U.S.C. §1324(a) et seq.

¹³ 775 ILCS 5/2-102(A), amended by P.A. 102-233. *Work authorization status* means the status of being a person born outside of the United States, and not a U.S. citizen, who is authorized by the federal government to work in the United States. 775 ILCS 5/2-101(L), added by P.A. 102-233. Under the IHRA, it is a civil rights violation for an employer to refuse to honor a legal work authorization; however, employers are not required to sponsor any applicant or employee to obtain or modify work authorization status, unless required by federal law. 775 ILCS 5/2-102(G), amended by P.A. 102-233; 775 ILCS 5/2-104(D), added by P.A. 102-233.

¹⁴ The Right to Privacy in the Workplace Act prohibits discrimination based on use of lawful products, e.g., alcohol, cannabis, and tobacco, off premises during non-working hours. 820 ILCS 55/5, amended by P.A. 101-27.

¹⁵ 820 ILCS 180/30, amended by P.A.s 101-221, ~~and 102-487~~, and 102-890, Victims' Economic Security and Safety Act. *Gender violence* means: (1) one or more acts of violence or aggression that are a criminal offense under State law committed, at least in part, on the basis of a person's actual or perceived sex or gender, (2) a physical intrusion or invasion of a sexual nature under coercive conditions that is a criminal offense under State law, or (3) a threat to commit one of these acts. 820 ILCS 180/10(12.5), added by P.A. 101-221. *Other crime of violence* means conduct prohibited by 720 ILCS 5/9 (homicide), 720 ILCS 5/11 (sex offenses), 720 ILCS 5/12 (bodily harm), 720 ILCS 5/26.5 (harassing and obscene communications), 720 ILCS 5/29D (terrorism), and 720 ILCS 5/33A (armed violence), or similar provision of the Criminal Code of 1961. 820 ILCS 180/10(2.5), added by P.A. 102-487.

An employer is prohibited from discriminating against any individual, e.g., an applicant for employment, because he or she "is an employee whose employer is subject to Section 21 of the Workplace Violence Prevention Act." The Workplace Violence Prevention Act allows an employer to seek a *workplace protection restraining order* when there is a credible threat of violence at the workplace. 820 ILCS 275/. Section 21 requires the employer seeking a *workplace protection restraining order* to notify the employee who is a victim of *unlawful violence*. 820 ILCS 275/21.

¹⁶ Illinois' Genetic Information Privacy Act (GIPA) (410 ILCS 513/25) and Title II of Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. §2000ff et seq.). Both laws protect job applicants and current and former employees from discrimination based on their genetic information. Note that GIPA provides greater protections to Illinois employees than Title II of GINA. GIPA prohibits employers from penalizing employees who do not disclose genetic information or do not choose to participate in a program requiring disclosure of the employee's genetic information. See f/n 12 in [sample](#) policy 2:260, *Uniform Grievance Procedure*, for the definition of genetic information and a detailed description of both statutes, including of Title I of GINA affecting the use of genetic information in health insurance. The EEOC vacated certain 2016 ADA and GINA wellness program regulations following an adverse court ruling. 83 Fed. Reg. 65296. Those rules provided guidance to employers on the extent to which they could use incentives (such as discounted health plan costs) to encourage employees to participate in wellness programs that asked for employee and family health information. Consult the board attorney for guidance regarding specific application of ADA and GINA and how they integrate with other related laws, e.g., the Family Medical Leave Act and other State laws governing time off for sickness and workers' compensation.

¹⁷ Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §12101 et seq.), amended by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) (Pub. L. 110-325) and modified by the LFFPA; Rehabilitation Act of 1973 (29 U.S.C. §701 et seq.).

¹⁸ 775 ILCS 5/2-102(I). Employers must provide reasonable accommodations to employees with conditions related to pregnancy, childbirth, or related conditions. 775 ILCS 5/2-102(J). Employers are required to post a notice summarizing the right to be free from unlawful discrimination and the right to certain reasonable accommodations. 775 ILCS 5/2-102(K). The IDOL is required to prepare such a notice, retrievable from its website, which employers may use.

history, unless a satisfactory credit history is an established bona fide occupational requirement of a particular position;¹⁹ conviction record, unless authorized by law;²⁰ or other legally protected categories.^{21 22 23 24} No one will be penalized solely for his or her status as a registered qualifying

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Federal law also prohibits employers from discriminating against employees and applicants on the basis of pregnancy, childbirth, or related medical conditions. 42 U.S.C. §2000e(k). State law also prohibits the State, which includes school districts, from interfering with or discriminating against an individual's fundamental right to continue a pregnancy or to have an abortion. 775 ILCS 55/, added by P.A. 101-13. Pregnant workers with pregnancy-related impairments may have disabilities for which they may be entitled to reasonable accommodation under the ADA. Guidance from the EEOC (~~6-25-15~~) is available at: www.eeoc.gov/pregnancy-discrimination~~www.eeoc.gov/laws/guidance/pregnancy-qa.cfm~~.

¹⁹ 820 ILCS 70/, Employee Credit Privacy Act. Unless a satisfactory credit history is an *established bona fide occupational requirement* of a particular position, an employer may not: (1) refuse to hire, discharge, or otherwise discriminate against an individual with respect to employment because of the individual's credit history or credit report; (2) inquire about an applicant's or employee's credit history; or (3) order or obtain an applicant's or employee's credit report from a consumer reporting agency. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more. Id. at 70/10.

²⁰ 775 ILCS 5/2-103.1(A), added by P.A. 101-656. The IHRA prohibits an employer from *disqualifying* or taking other *adverse action* against an applicant or employee based on a *conviction record* unless: (1) otherwise authorized by law; (2) there is a *substantial relationship* between the criminal offense and the employment sought; or (3) granting the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public. Id. Disqualification or adverse action includes refusal to hire, segregation, and actions with respect to recruitment, hiring, promotion, renewal of employment, selection for training or apprenticeship, discharge, discipline, tenure or terms, privileges, or conditions of employment. Id. If a board wants to terminate or take other adverse action against a *current* district employee based in whole or in part on a conviction record, it still must comply with all applicable statutory, policy, and bargaining agreement provisions. Boards should consult the board attorney to ensure all legal obligations are met.

Districts that wish to disqualify or take other adverse action against an applicant or employee based on a conviction record must first engage them in an *interactive assessment*, providing the individual with the opportunity to submit evidence in mitigation or to dispute the accuracy of the conviction record. See sample policy 5:30, Hiring Process and Criteria, at ¶n 5, and administrative procedure 5:30-AP2, *Investigations*, for more information.

²¹ Insert the following optional sentence (775 ILCS 5/1-103(A) and 29 U.S.C. §631):

Age, as used in this policy, means the age of a person who is at least 40 years old.

²² Insert the following optional provision (29 U.S.C. §705(10)(A)-(B), (20)(C)(v), (20)(D) and 42 U.S.C. §12114):

Handicap and disability, as used in this policy, excludes persons:

1. Currently using illegal drugs;
2. Having a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, are unable to perform the duties of the job; or
3. Whose current alcohol use prevents them from performing the job's duties or constitutes a direct threat to the property or safety of others.

Persons who have successfully completed or are participating in a drug rehabilitation program are considered *disabled*.

²³ Districts may not make residency in the district a condition of employment for teachers or educational support personnel. 105 ILCS 5/24-4.1, 5/10-23.5. This ban on residency requirements for teachers applies only to instructional personnel, and not, for example, to assistant principals. Owen v. Kankakee Sch. Dist., 261 Ill.App.3d 298 (3rd Dist. 1994). Districts also may not ask an applicant, or the applicant's previous employer, whether the applicant ever received, or filed a claim for, benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act. 820 ILCS 55/10(a). Districts are also prohibited from requiring, requesting, or coercing an employee or potential employee to provide a user name and password or any password or other related account information to gain or demand access to his or her personal online account. 820 ILCS 55/10(b). While the law does not prohibit employers from viewing public information, consult the board attorney before engaging in this practice.

²⁴ School districts must accommodate mothers who choose to continue breastfeeding after returning to work. See 740 ILCS 137/, Right to Breastfeed Act; 820 ILCS 260/, Nursing Mothers in the Workplace Act (NMWA); and 29 U.S.C. §207(r), Fair Labor Standards Act. At least one court has ruled an implied private right of action may exist under the NMWA. Spriessch v. City of Chicago, 2017 WL 4864913 (N.D.Ill. 2017). See sample language for a personnel handbook in 5:10-AP, *Workplace Accommodations for Nursing Mothers*.

patient or a registered designated caregiver for purposes of the Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/.²⁵

Persons who believe they have not received equal employment opportunities should report their claims to the Nondiscrimination Coordinator and/or a Complaint Manager for the Uniform Grievance Procedure. These individuals are listed below. No employee or applicant will be discriminated or retaliated against because he or she: (1) requested, attempted to request, used, or attempted to use a reasonable accommodation as allowed by the Illinois Human Rights Act, or (2) initiated a complaint, was a witness, supplied information, or otherwise participated in an investigation or proceeding involving an alleged violation of this policy or State or federal laws, rules or regulations, provided the employee or applicant did not make a knowingly false accusation nor provide knowingly false information.²⁶

Administrative Implementation

The Superintendent shall appoint a Nondiscrimination Coordinator for personnel who shall be responsible for coordinating the District's nondiscrimination efforts. The Nondiscrimination Coordinator may be the Superintendent or a Complaint Manager for the Uniform Grievance Procedure. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.²⁷

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²⁵ 410 ILCS 130/40, amended by P.A. 101-363; 77 Ill.Admin.Code Part 946. To legally use medical cannabis, an individual must first become a *registered qualifying patient*. Their use of cannabis, e.g., permissible locations, is governed by the Compassionate Use of Medical Cannabis Program Act, 410 ILCS 130/, amended by P.A.s 100-660 and 101-363. There are many situations in which no one, even a registered qualifying patient, may possess or use cannabis except as provided under *Ashley's Law* (105 ILCS 5/22-33, added by P.A.s 100-660, and amended by P.A.s 101-363, and 101-370), including in a school bus or on the grounds of any preschool, or primary or secondary school. 410 ILCS 130/30(a)(2)(3), amended by P.A. 101-363. See [sample](#) policy 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*, at f/n 9 for further discussion.

²⁶ 775 ILCS 5/6-101. Discrimination on the basis of a request for or use of a reasonable accommodation is a civil rights violation under the IHRA. *Id.* Most discrimination laws prohibit retaliation against employees who oppose practices made unlawful by those laws, including, for example, the EEOA, Title IX, ADA, ADEA, Victims' Economic Security and Safety Act, the EPA, and the Ill. Whistleblower Act (IWA).

The IWA specifically prohibits employers from retaliating against employees for: (1) disclosing information to a government or law enforcement agency, where the employee has reasonable cause to believe that the information discloses a violation of a State or federal law, rule, or regulation (740 ILCS 174/15(b)); (2) disclosing information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information reveals a violation of a State or federal law, rule or regulation (740 ILCS 174/15(a)); (3) refusing to participate in an activity that would result in a violation of a State or federal law, rule, or regulation, including, but not limited to, violations of FOIA (740 ILCS 174/20); and (4) disclosing or attempting to disclose public corruption or wrongdoing (740 ILCS 174/20.1). The definition of retaliation is expanded to include *other retaliation* and *threatening retaliation*. 740 ILCS 174/20.1, 20.2.

The Ill. False Claims Act defines *State* to include school districts. 740 ILCS 175/2(a). Thus, boards may seek a penalty from a person for making a false claim for money or property. 740 ILCS 175/4. For information regarding the IWA and the tort of retaliatory discharge, see *Thomas v. Guardsmark*, 487 F.3d 531 (7th Cir. 2007)(discussing the elements of retaliatory discharge and IWA); *Sherman v. Kraft General Foods, Inc.*, 272 Ill.App.3d 833 (4th Dist. 1995)(finding employee who reported asbestos hazard had a cause of action for retaliatory discharge).

²⁷ The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete "~~The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.~~" insert a hard return to create a new paragraph, and insert "The Superintendent shall appoint a Title IX Coordinator to coordinate the District's efforts to comply with Title IX." Then, list the Title IX and Nondiscrimination Coordinators' names and contact information separately in this policy.

The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.
28

Nondiscrimination Coordinator: 29

Name

Address

Email

Telephone

Complaint Managers:

Name

Address

Email

Telephone

Name

Address

Email

Telephone

The Superintendent shall also use reasonable measures to inform staff members and applicants that the District is an equal opportunity employer, such as, by posting required notices and including this policy in the appropriate handbooks. 30

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²⁸ Title IX regulations require districts to designate and authorize at least one employee to coordinate their efforts to comply with Title IX and to refer to that employee as the *Title IX Coordinator*. 34 C.F.R. §106.8(a). Districts must identify the Title IX Coordinator by name, office address, email address, and telephone number. Id. See f/n 219 in [sample](#) policy 2:260, *Uniform Grievance Procedure*.

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

²⁹ Best practice is that throughout the district's board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

³⁰ In addition to notifying employees of the Uniform Grievance Procedure, a district must notify them of the person(s) designated to coordinate the district's compliance with Title IX and the Rehabilitation Act of 1973. 34 C.F.R. §§106.8(a), 104.8(a). The Nondiscrimination Coordinator may be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as a Complaint Manager for [sample](#) policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information, to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and school board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

Minority Recruitment ³¹

The District will attempt to recruit and hire minority employees. The implementation of this policy may include advertising openings in minority publications, participating in minority job fairs, and recruiting at colleges and universities with significant minority enrollments. This policy, however, does not require or permit the District to give preferential treatment or special rights based on a protected status without evidence of past discrimination.

LEGAL REF.: 8 U.S.C. §1324a et seq., Immigration Reform and Control Act.
20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972; 34 C.F.R. Part 106.
29 U.S.C. §206(d), Equal Pay Act.
29 U.S.C. §621 et seq., Age Discrimination in Employment Act.
29 U.S.C. §701 et seq., Rehabilitation Act of 1973.
38 U.S.C. §4301 et seq., Uniformed Services Employment and Reemployment Rights Act (1994).
42 U.S.C. §1981 et seq., Civil Rights Act of 1991.
42 U.S.C. §2000e et seq., Title VII of the Civil Rights Act of 1964; 29 C.F.R. Part 1601.
42 U.S.C. §2000ff et seq., Genetic Information Nondiscrimination Act of 2008.
42 U.S.C. §2000d et seq., Title VI of the Civil Rights Act of 1964.
42 U.S.C. §2000e(k), Pregnancy Discrimination Act.
42 U.S.C. §12111 et seq., Americans with Disabilities Act, Title I.
Ill. Constitution, Art. I, §§17, 18, and 19.
105 ILCS 5/10-20.7, 5/10-20.7a, 5/10-21.1, 5/10-22.4, 5/10-23.5, 5/22-19, 5/24-4, 5/24-4.1, and 5/24-7.
410 ILCS 130/40, Compassionate Use of Medical Cannabis Program Act.
410 ILCS 513/25, Genetic Information Privacy Act.
740 ILCS 174/, Ill. Whistleblower Act.
775 ILCS 5/1-103, 5/2-101, 5/2-102, 5/2-103, 5/2-103.1, 5/2-104(D) and 5/6-101, Ill. Human Rights Act.
775 ILCS 35/, Religious Freedom Restoration Act.
820 ILCS 55/10, Right to Privacy in the Workplace Act.
820 ILCS 70/, Employee Credit Privacy Act.
820 ILCS 75/, Job Opportunities for Qualified Applicants Act.
820 ILCS 112/, Ill. Equal Pay Act of 2003.
820 ILCS 180/30, Victims' Economic Security and Safety Act.
820 ILCS 260/, Nursing Mothers in the Workplace Act.

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³¹ All districts must have a policy on minority recruitment. 105 ILCS 5/10-20.7a. Unlike minority recruitment efforts, affirmative action plans are subject to significant scrutiny because of the potential for reverse discrimination. The U.S. Constitution's guarantee of equal protection prohibits school districts from using racial hiring quotas without evidence of past discrimination. See 29 C.F.R. §1608.1 et seq. (EEOC's guidelines for affirmative action plans); Wygant v. Jackson Bd. of Ed., 476 U.S. 267 (1986) (The goal of remedying societal discrimination does not justify race-based layoffs.); City of Richmond v. J.A. Croson Co., 488 U.S. 469 (1989) (Minority contractor quota struck; quotas must be narrowly tailored to remedy past discrimination and the city failed to identify the need for remedial action and whether race-neutral alternatives existed.).

The IHRA states that it shall not be construed as requiring any employer to give preferential treatment or special rights based on sexual orientation or to implement affirmative action policies or programs based on sexual orientation. 775 ILCS 5/1-101.1.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 5:40 (Communicable and Chronic Infectious Disease), 5:50 (Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition), 5:70 (Religious Holidays), 5:180 (Temporary Illness or Temporary Incapacity), 5:200 (Terms and Conditions of Employment and Dismissal), 5:250 (Leaves of Absence), 5:270 (Employment, At-Will, Compensation, and Assignment), 5:300 (Schedules and Employment Year), 5:330 (Sick Days, Vacation, Holidays, and Leaves), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 8:70 (Accommodating Individuals with Disabilities)

DRAFT

General Personnel

Workplace Harassment Prohibited ¹

The School District expects the workplace environment to be productive, respectful, and free of unlawful discrimination, including harassment. District employees shall not engage in harassment or abusive conduct on the basis of an individual's actual or perceived race², color, religion³, national origin, ancestry, sex, sexual orientation, age, citizenship status, work authorization status, disability, pregnancy, marital status, order of protection status, military status, or unfavorable discharge from

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¹ State or federal law controls this policy's content. Federal law requires districts to take action to prevent sexual harassment and to disseminate a policy regarding its prohibition of sex discrimination. 29 C.F.R. §1604.11(f); 34 C.F.R. §106.8(b). State law requires districts to establish a policy to prohibit sexual harassment. 5 ILCS 430/70-5(a), amended by P.A. 101-221. See f/n [43](#) below. Harassment based on a protected status is a form of discrimination that violates many State and federal laws (see the policy's Legal References).

Workplace harassment policies have typically focused on *sexual* harassment since it receives the most attention. However, the broad prohibitions against discrimination in State and federal civil rights laws will cover harassing conduct that is motivated by animus against any protected status. See *Porter v. Erie Foods Int'l, Inc.*, 576 F.3d 629 (7th Cir. 2009) (recognizing a cause of action for race harassment). For a list of protected statuses, see sample policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. This policy prohibiting harassment has a separate section on sexual harassment because of the extensive statutory and case law regarding it.

Under the Ill. Human Rights Act (IHRA), harassment is unlawful if it has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. 775 ILCS 5/2-101(E-1), added by P.A. 101-221. *Working environment* is not limited to a physical location to which an employee is assigned. *Id.* Harassment is unlawful on the basis of the specifically-listed categories in this policy whether that status is *actual* or *perceived*. *Id.*

An employer is liable under Title VII of the Civil Rights Act of 1964 (Title VII) for an employee's harassment of a co-worker if the employer was negligent with respect to the offensive behavior by, for example, failing to take remedial action when it knew or should have known about the harassment. 42 U.S.C. §2000e *et seq.* An employer is liable under the IHRA for harassment by its nonmanagerial and nonsupervisory employees if it becomes aware of the conduct and fails to take reasonable corrective measures. 775 ILCS 5/2-102(A), amended by P.A. 101-221. However, when the perpetrator is the victim's supervisor, the employer will be vicariously liable for the supervisor's actions. Lack of knowledge of a supervisor's misconduct is no defense. *Burlington Indus. v. Ellerth*, 524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998). A *supervisor* is someone who has the authority to demote, discharge, or take other negative job action against the victim. *Vance v. Ball State Univ.*, [433 S.Ct. 2434](#) [570 U.S. 421](#) (2013). Note that the IHRA (775 ILCS 5/2-102(D)) imposes strict liability on the employer when an employee has been sexually harassed by supervisory personnel regardless of whether the harasser has any authority over the complainant. *Sangamon Cnty. Sheriff's Dept. v. Ill. Human Rights Com'n*, 233 Ill.2d 125 (Ill. 2009). Additionally, under the IHRA, an employer is liable for the harassment of *nonemployees* by nonmanagerial and nonsupervisory employees if it becomes aware of the conduct and fails to take reasonable corrective measures. 775 ILCS 5/2-102(A-10) and (D-5), added by P.A. 101-221. Nonemployees are those who are directly performing services for an employer pursuant to a contract, such as contractors or consultants. *Id.*

Not all harassing conduct is unlawful discrimination, even if it is disruptive and hurtful. If a board wants to include language in this policy prohibiting employees from engaging in intimidating or offensive conduct that is *not* a civil rights violation, it should consult the board attorney.

² See sample policy 5:10, *Equal Employment Opportunity and Minority Recruitment*, at f/n 3, for information about the definition of *race*.

³ ~~Section 2-102 of T~~the IHRA contains a *religious discrimination* subsection. [775 ILCS 5/2-102\(E-5\)](#). It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer's business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. [775 ILCS 5/2-102\(E-5\)](#) *Id.* Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. *Id.*

military service, nor shall they engage in harassment or abusive conduct on the basis of an individual's other protected status identified in Board policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. Harassment of students, including, but not limited to, sexual harassment, is prohibited by Board policies 2:260, *Uniform Grievance Procedure*; 2:265, *Title IX Sexual Harassment Grievance Procedure*; 7:20, *Harassment of Students Prohibited*; 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*; and 7:185, *Teen Dating Violence Prohibited*.

The District will take remedial and corrective action to address unlawful workplace harassment, including sexual harassment.

Sexual Harassment Prohibited⁴

The District shall provide a workplace environment free of verbal, physical, or other conduct or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law. The District provides annual sexual harassment prevention training in accordance with State law.⁵

District employees shall not make unwelcome sexual advances or request sexual favors or engage in any unwelcome conduct of a sexual nature when: (1) submission to such conduct is made either

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⁴ The IHRA (775 ILCS 5/2-102(D)) provides that sexual harassment is a civil rights violation:

For any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment; provided, that an employer shall be responsible for sexual harassment of the employer's employees by non-employees or non-managerial and non-supervisory employees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures.

See sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, for the definition of Title IX sexual harassment (20 U.S.C. §1681 *et seq.*), and see f/n 3 of it for examples of employee sexual harassment that may violate Title IX. Title IX's reach is broad because an alleged complainant or alleged respondent may be *anyone* in the district's educational program or activity. This includes applicants for employment, students, parents/guardians, any employee, and third parties. Districts are liable for Title IX sexual harassment when *any* district employee has *actual knowledge* of sexual harassment or allegations of sexual harassment against anyone in the district (except when the only employee with knowledge is the perpetrator of the alleged sexual harassment). 34 C.F.R. §106.30.

The State Officials and Employees Ethics Act (SOEEA) (5 ILCS 430/70-5(a), amended by P.A. 101-221) requires governmental entities (including school districts) to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment. Unlike the powers granted by the Ill. General Assembly to municipalities to pass ordinances, school boards govern by rules referred to as *polices*. 105 ILCS 5/10-20.5. Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board. 105 ILCS 5/10-20.

The policy must include, at a minimum: (1) a prohibition on sexual harassment; (2) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Ill. Dept. of Human Rights (IDHR); (3) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the SOEEA, the Whistleblower Act (740 ILCS 174/), and the IHRA (775 ILCS 5/); (4) the consequences: (a) of a violation of the prohibition on sexual harassment and (b) for knowingly making a false report; and (5) a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit. 5 ILCS 430/70-5(a), amended by P.A. 101-221. Sample policy 2:105, *Ethics and Gift Ban*, covers item (5) of this list.

⁵ 775 ILCS 5/2-109, added by P.A. 101-221. See sample policy 5:100, *Staff Development Program*, at f/n 4. Districts may use a free, online model program to be offered by the Ill. Dept. of Human Rights (IDHR), develop their own program, or utilize a combination of the two, as long as it includes the following, at a minimum: (1) an explanation of sexual harassment consistent with the IHRA, (2) examples of conduct that constitutes unlawful harassment, (3) a summary of relevant federal and State law concerning sexual harassment and remedies available to victims of sexual harassment, and (4) a summary of responsibilities of employers in the prevention, investigation, and corrective measures of sexual harassment. *Id.* at 5/2-109(B), added by P.A. 101-221. For IDHR's online model program, see its *Model Sexual Harassment Prevention Training Program* page at: <https://www2.illinois.gov/dhr/Training/Pages/State-of-Illinois-Sexual-Harassment-Prevention-Training-Model.aspx>. Employers that fail to comply with this training requirement may face financial penalties. *Id.* Training on other types of workplace harassment is not required by law; however it is best practice.

explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.⁶ Sexual harassment prohibited by this policy includes, but is not limited to, verbal, physical, or other conduct. The terms intimidating, hostile, or offensive include, but are not limited to, conduct that has the effect of humiliation, embarrassment, or discomfort. Sexual harassment will be evaluated in light of all the circumstances.

Making a Report or Complaint

Employees and *nonemployees*⁷ (persons who are not otherwise employees and are directly performing services for the District pursuant to a contract with the District, including contractors, and consultants) are encouraged to promptly report information regarding violations of this policy. Individuals may choose to report to a person of the individual's same gender. Every effort should be made to file such reports or complaints as soon as possible, while facts are known and potential witnesses are available.

Aggrieved individuals, if they feel comfortable doing so, should directly inform the person engaging in the harassing conduct or communication that such conduct or communication is offensive and must stop.

Whom to Contact with a Report or Complaint⁸

An employee should report claims of harassment, including making a confidential report, to any of the following: his/her immediate supervisor, the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.⁹

An employee may also report claims using Board policy 2:260, *Uniform Grievance Procedure*. If a claim is reported using Board policy 2:260, then the Complaint Manager shall process and review the claim according to that policy, in addition to any response required by this policy.

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⁶ This definition is from State and federal law. 775 ILCS 5/2-101(E) and 29 C.F.R. §1604.11. *Working environment* is not limited to a physical location to which an employee is assigned. 775 ILCS 5/2-101(E), amended by P.A. 101-221. The harassing conduct must be severe or pervasive so as to alter the conditions of the employee's work environment by creating a hostile or abusive situation. *Williams v. Waste Mgmt.*, 361 F.3d 1021 (7th Cir. 2004). The surrounding circumstances, expectations, and relationships will distinguish between teasing or rough-housing and conduct that a reasonable person would find severely hostile or abusive. In addition, while same-sex gender harassment claims are actionable, the victim must show that s/he suffered disadvantageous employment conditions to which members of the other sex were not exposed. *Oncale v. Sundowner Offshore Servs.*, 523 U.S. 75 (1998).

⁷ 775 ILCS 5/2-102(A-10) and (D-5), added by P.A. 101-221. See also f/n 1, above, for discussion regarding nonemployees.

⁸ While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

⁹ 5 ILCS 430/70-5(a) requires that a school board policy prohibiting sexual harassment include details for reporting an allegation of sexual harassment, including options for making a confidential report to a supervisor and an ethics officer. 5 ILCS 430/20-23 defines ethics officers as being designated by State agencies under the jurisdiction of the Executive Ethics Commission. School districts are not State agencies (5 ILCS 430/1-5) and do not have ethics officers; thus, this sample policy substitutes Complaint Manager for ethics officer. Note also that the IDHR has established a Sexual Harassment Hotline Call Center and website to help the public find resources and assistance for the filing of sexual harassment complaints. The hotline can be reached Monday through Friday with the exception of State holidays, between the hours of 8:30 a.m. and 5:00 p.m., at 1-877-236-7703. See www2.illinois.gov/sites/sexualharassment/Pages/default.aspx. All communications received by the IDHR are exempt from disclosure under the Freedom of Information Act (FOIA).

The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District’s current Nondiscrimination Coordinator and Complaint Managers. The Nondiscrimination Coordinator also serves as the District’s Title IX Coordinator. ¹⁰

Nondiscrimination Coordinator:

Name

Address

Email

Telephone

Complaint Managers:

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

Investigation Process

Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager.¹¹ Any employee who fails to promptly forward a report or complaint may be disciplined, up to and including discharge.

Reports and complaints of harassment will be confidential to the greatest extent practicable, subject to the District’s duty to investigate and maintain a workplace environment that is productive, respectful, and free of unlawful discrimination, including harassment.

For any report or complaint alleging sexual harassment that, if true, would implicate Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.), the Nondiscrimination Coordinator or designee¹²

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¹⁰ Title IX regulations require districts to identify the name, office address, email address, and telephone number of the person who is responsible for coordinating the district’s compliance efforts. The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete “~~The Nondiscrimination Coordinator also serves as the District’s Title IX Coordinator.~~” and supplement the previous sentence to state “The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District’s current Nondiscrimination Coordinator, Title IX Coordinator, and Complaint Managers.” Then, list the Title IX and Nondiscrimination Coordinators’ names and contact information separately in this policy.

¹¹ If the district’s Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state “Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator, Title IX Coordinator, or a Complaint Manager.”

¹² “Nondiscrimination Coordinator or designee” is used where Title IX is potentially implicated. In contrast, if Title IX is likely not implicated then “Nondiscrimination Coordinator or a Complaint Manager or designee” is used (see next paragraph in policy text). If the district’s Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, delete “~~Nondiscrimination~~” and insert “Title IX” in its place.

shall consider whether action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, should be initiated.

For any other alleged workplace harassment that does not require action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, the Nondiscrimination Coordinator or a Complaint Manager or designee shall consider whether an investigation under policy 2:260, *Uniform Grievance Procedure*, and/or 5:120, *Employee Ethics; Code of Professional Conduct; and Conflict of Interest*,¹³ should be initiated, regardless of whether a written report or complaint is filed.

Reports That Involve Alleged Incidents of Sexual Abuse of a Child by School Personnel ¹⁴

An *alleged incident of sexual abuse* is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A(b), that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity.

Any complaint alleging an incident of sexual abuse shall be processed and reviewed according to policy 5:90, *Abused and Neglected Child Reporting*. In addition to reporting the suspected abuse, the complaint shall also be processed under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, or policy 2:260, *Uniform Grievance Procedure*.

Enforcement ¹⁵

A violation of this policy by an employee may result in discipline, up to and including discharge.¹⁶ A violation of this policy by a third party will be addressed in accordance with the authority of the Board

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¹³ See administrative procedure 5:120-AP2, *Employee Conduct Standards* and its exhibit 5:120-AP2, E, *Expectations and Guidelines for Employee-Student Boundaries*.

¹⁴ Required for districts located within a county served by an accredited Children's Advocacy Center (CAC). Delete this subhead if your school district is within a county not served by an accredited CAC. 105 ILCS 5/22-85, added by P.A. 101-531 (governing the investigation of an *alleged incident of sexual abuse* of any child within any Illinois counties served by a CAC). For further discussion see f/n 14 in sample policy 5:90, *Abused and Neglected Child Reporting*.

¹⁵ See *Berry v. Delta Airlines*, 260 F.3d 803, 811 (7th Cir. 2001) ("If an employer takes reasonable steps to discover and rectify the harassment of its employees ... it has discharged its legal duty.")

In addition to violating other civil rights laws, a school district violates the *public accommodations* article in the IHRA if it fails to take corrective action to stop severe or pervasive harassment. 775 ILCS 5/5-102 and 5/5-102.2, [amended by P.A. 102-1102, eff. 1-1-23](#).

¹⁶ 5 ILCS 430/70-5(a)(consequences of a violation of the prohibition on sexual harassment). When discharge is the penalty, examine 50 ILCS 205/3c. It requires a school district to post on its website and make available to news media specific information about severance agreements that it enters into because an employee or contractor was found to have engaged in sexual harassment or sexual discrimination, as defined by the IHRA or Title VII. *Id.* Additionally, under the Workplace Transparency Act (WTA), employers may not require confidentiality clauses in settlement or termination agreements involving alleged unlawful employment practices under federal or State civil rights laws, except under specific conditions. 820 ILCS 96/1-30, added by P.A. 101-221.

in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any person making a knowingly false accusation regarding harassment will likewise be subject to disciplinary action, which for an employee that may be up to and including discharge. ¹⁷

Retaliation Prohibited

An employee's employment, compensation, or work assignment shall not be adversely affected by complaining or providing information about harassment. Retaliation against employees for bringing complaints or providing information about harassment is prohibited (see Board policy 2:260, *Uniform Grievance Procedure*), and depending upon the law governing the complaint, whistleblower protection may be available under the State Officials and Employees Ethics Act (5 ILCS 430/), the Whistleblower Act (740 ILCS 174/), and the Ill. Human Rights Act (775 ILCS 5/). ¹⁸

An employee should report allegations of retaliation to his/her immediate supervisor, the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.

Employees who retaliate against others for reporting or complaining of violations of this policy or for participating in the reporting or complaint process will be subject to disciplinary action, up to and including discharge.

Recourse to State and Federal Fair Employment Practice Agencies ¹⁹

The District encourages all employees who have information regarding violations of this policy to report the information pursuant to this policy. The following government agencies are available to assist employees: the Ill. Dept. of Human Rights and the U.S. Equal Employment Opportunity Commission.

The Superintendent shall also use reasonable measures to inform staff members, applicants, and nonemployees of this policy, which shall include posting on the District website and/or making this

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Prior to the passage of 50 ILCS 205/3c and the WTA, members of the public could already access copies of severance agreements between school districts and their former employees under FOIA. The Ill. Atty. Gen. Public Access Counselor (PAC) directed a public body to release a settlement agreement that arose out of claims of sexual harassment. PAO 14-4. The PAC noted that the public body could not withhold the entire settlement agreement under 5 ILCS 140/7(1)(c), which exempts personal information that would constitute a clearly unwarranted invasion of privacy. Instead, it could redact personal information from the agreement, such as the complainants' names in order to protect their privacy. *Id.* However, data regarding settlement agreements involving allegations of sexual harassment or other unlawful discrimination that an employer must report to IDHR under 775 ILCS 5/2-108 is categorically exempt from FOIA. 5 ILCS 140/7.5(oo), added by P.A. 101-221. See f/n 6 in sample policy 2:260, *Uniform Grievance Procedure*, for more discussion about reconciling 50 ILCS 205/3c with another new law, the Government Severance Pay Act (GSPA) (5 ILCS 415/10(a)(1)), which prohibits school district employees with contract provisions for severance pay to receive any severance pay if they are fired for *misconduct* by the board.

¹⁷ 5 ILCS 430/70-5(a)(consequences for knowingly making a false report of sexual harassment).

¹⁸ *Id.* (prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the SOEEA, the Whistleblower Act (740 ILCS 174/), and the IHRA (775 ILCS 5/)).

Crawford v. Metro. Gov't of Nashville & Davidson Cnty., 555 U.S. 271 (2009) (holding the anti-retaliation provision in EEOA protects an employee who spoke out about harassment, not only on his or her own initiative, but also in answering questions during an employer's internal investigation).

¹⁹ 5 ILCS 430/70-5(a)(how an individual can report an allegation of sexual harassment, including options for making a confidential report to the Inspector General or the IDHR). This sample policy does not reference the Inspector General because the Inspector General does not have jurisdiction over public school districts. [See 5 ILCS 430/20 \(executive inspectors general\), 5 ILCS 430/25 \(legislative inspector general\) 5 ILCS 430/4.](#) School districts must also annually disclose to IDHR certain data about *adverse judgment or administrative rulings* made against them where there was a finding of sexual harassment or unlawful discrimination under federal, State, or local laws. 775 ILCS 5/2-108, added by P.A. 101-221 ([scheduled to be repealed on 1-1-30](#)). See IDHR's *FAQ for Employers under Section 5/2-108* and *Form IDHR 2-108*, at: www2.illinois.gov/dhr/Pages/default.aspx.

policy available in the District's administrative office, and including this policy in the appropriate handbooks.²⁰

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²⁰ A district must notify employees of the grievance procedure and the person(s) designated to coordinate the district's compliance with Title IX. 34 C.F.R. §106.8. The nondiscrimination coordinator can be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as the complaint manager in policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

Informing nonemployees is not required by law. However, given the potential for employer liability under the IHRA for harassment of nonemployees, best practice is to publicize this policy to those individuals as well.

LEGAL REF.: 42 U.S.C. §2000e et seq., Title VII of the Civil Rights Act of 1964; 29 C.F.R. §1604.11.
 20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972; 34 C.F.R. Part 106.
 5 ILCS 430/70-5(a), State Officials and Employees Ethics Act.
 775 ILCS 5/2-101(E) and (E-1), 5/2-102(A), (A-10), (D-5), 5/2-102(E-5), 5/2-109, 5/5-102, and 5/5-102.2, Ill. Human Rights Act.
 56 Ill. Admin.Code Parts 2500, 2510, 5210, and 5220.
[Burlington Indus. v. Ellerth, 524 U.S. 742 \(1998\).](#)
[Vance v. Ball State Univ., 570 U.S. 421 \(2013\).](#)
[Crawford v. Metro. Gov't of Nashville & Davidson Cnty., 555 U.S. 271 \(2009\).](#)
[Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 \(2005\).](#)
[Oncale v. Sundowner Offshore Servs., 523 U.S. 75 \(1998\).](#)
[Burlington Indus. v. Ellerth, 524 U.S. 742 \(1998\).](#)
[Faragher v. City of Boca Raton, 524 U.S. 775 \(1998\).](#)
[Harris v. Forklift Systems, 510 U.S. 17 \(1993\).](#)
[Franklin v. Gwinnett Co. Public Schools, 503 U.S. 60 \(1992\).](#)
[Meritor Savings Bank v. Vinson, 477 U.S. 57 \(1986\).](#)
[Porter v. Erie Foods Int, Inc., 576 F.3d 629 \(7th Cir. 2009\).](#)
[Williams v. Waste Mgmt., 361 F.3d 1021 \(7th Cir. 2004\).](#)
[Berry v. Delta Airlines, 260 F.3d 803 \(7th Cir. 2001\).](#)
[Crawford v. Metro. Gov't of Nashville & Davidson Cnty., 555 U.S. 271 \(2009\).](#)
[Faragher v. City of Boca Raton, 524 U.S. 775 \(1998\).](#)
[Franklin v. Gwinnett Co. Public Schools, 503 U.S. 60 \(1992\).](#)
[Harris v. Forklift Systems, 510 U.S. 17 \(1993\).](#)
[Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 \(2005\).](#)
[Meritor Savings Bank v. Vinson, 477 U.S. 57 \(1986\).](#)
[Oncale v. Sundowner Offshore Servs., 523 U.S. 75 \(1998\).](#)
[Porter v. Erie Foods Int, Inc., 576 F.3d 629 \(7th Cir. 2009\).](#)
[Sangamon Cnty. Sheriff's Dept. v. Ill. Human Rights Com'n, 233 Ill.2d 125 \(Ill. 2009\).](#)
[Vance v. Ball State Univ., 133 S. Ct. 2434 \(2013\).](#)
[Williams v. Waste Mgmt., 361 F.3d 1021 \(7th Cir. 2004\).](#)
[Sangamon Cnty. Sheriff's Dept. v. Ill. Human Rights Com'n, 233 Ill.2d 125 \(Ill. 2009\).](#)

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 4:60 (Purchases and Contracts), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; [Code of Professional](#) Conduct; and Conflict of Interest), 7:20 (Harassment of Students Prohibited), 8:30 (Visitors to and Conduct on School Property)

General Personnel

Employee Ethics; Code of Professional Conduct; and Conflict of Interest ¹

All District employees are expected to maintain high standards in their job performance, demonstrate integrity and honesty, be considerate and cooperative, and maintain professional and appropriate relationships with students, parents/guardians, staff members, and others.

The Superintendent or designee shall provide this policy to all District employees and students and/or parents/guardians in their respective handbooks, and ensure its posting on the District's website, if any. ²

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¹ The State Officials and Employees Ethics Act (SOEEA) (5 ILCS 430/), *Erin's Law* (105 ILCS 5/10-23.13, amended by P.A. 102-610), and *Faith's Law* (105 ILCS 5/22-85.5, added by P.A. 102-676), require a policy on subjects covered in this sample policy; State and federal law controls its content.

This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

This policy largely cites 105 ILCS 5/22-85.5, a small portion of the *Faith's Law* package. *Faith's Law* is the entirety of Public Act 102-676, which closed significant legal loopholes related to combating grooming by: (1) broadening the definition of grooming prohibited by the Criminal Code of 2012 (720 ILCS 5/11-25); (2) authorizing the Ill. Dept. of Children and Family Services to investigate grooming allegations under the Abused and Neglected Child Reporting Act (325 ILCS 5/3); and (3) requiring the Ill. State Board of Education (ISBE) to, by 7-1-23, develop and maintain a resource guide for students, parents/guardians, and teachers about sexual abuse response and prevention resources available in their community (105 ILCS 5/2-3.188). A *Faith's Law* trailer bill, P.A. 102-702, eff. 7-1-23, further combats grooming by amending School Code provisions related to district and third-party contractor hiring practices, suspension and revocation of employee licenses, and criminal history records checks for prospective and current employees.

² Required by 105 ILCS 5/22-85.5(e), added by P.A. 102-676. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*, and 7:190-E2, *Student Handbook Checklist*. The Ill. Principals Association (IPA) maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/msh.

Professional and Appropriate Conduct

Professional and appropriate employee conduct are important Board goals that impact the quality of a safe learning environment and the school community, increasing students' ability to learn and the District's ability to educate. To protect students from sexual misconduct by employees, and employees from the appearance of impropriety, State law also recognizes the importance for District employees to constantly maintain professional and appropriate relationships with students by following established expectations and guidelines for employee-student boundaries. Many breaches of employee-student boundaries do not rise to the level of criminal behavior but do pose a potential risk to student safety and impact the quality of a safe learning environment. Repeated violations of employee-student boundaries may indicate the grooming of a student for sexual abuse. As bystanders, employees may know of concerning behaviors that no one else is aware of, so their training on: (1) preventing, recognizing, reporting, and responding to child sexual abuse and grooming behavior; (2) this policy; and (3) federal and state reporting requirements is essential to maintaining the Board's goal of professional and appropriate conduct. ³

The Superintendent or designee shall identify employee conduct standards⁴ that define appropriate employee-student boundaries, provide training about them, and monitor the District's employees for violations of employee-student boundaries. The employee conduct standards will require that, at a minimum:

1. Employees who are governed by the *Code of Ethics for Illinois Educators*, adopted by the Ill. State Board of Education (ISBE), will comply with its incorporation by reference into this policy. ⁵
2. Employees are trained on educator ethics, child abuse, grooming behaviors, and employee-student boundary violations as required by law and policies 2:265, *Title IX Sexual Harassment Grievance Procedure*; 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*; 5:90, *Abused and Neglected Child Reporting*; and 5:100, *Staff Development Program*. ⁶

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³ See 105 ILCS 5/22-85.5(b), added by P.A. 102-676.

⁴ Sample conduct standards are contained in administrative procedure 5:120-AP2, *Employee Conduct Standards*. These items are subjects of mandatory collective bargaining. Consult the board attorney for advice before establishing them.

⁵ 105 ILCS 5/22-85.5(d)(1), added by P.A. 102-676; 23 Ill.Admin.Code Part 22. 105 ILCS 5/22-85.5(d)(1) requires boards to incorporate ISBE's *Code of Ethics for Illinois Educators* in their policies. Prior to this law requiring boards to incorporate the *Code* by reference, this policy incorporated it to demonstrate a board's commitment to the *Code*'s principles, potentially allowing a board to enforce the *Code* independently from any action taken by the State Superintendent.

⁶ 105 ILCS 5/22-85.5(d)(5), added by P.A. 102-676, requires districts to reference required employee training related to child abuse and educator ethics in its employee professional conduct policy.

105 ILCS 5/10-22.39(f) requires each board to conduct in-service training on educator ethics, teacher-student conduct, and school employee-student conduct for all personnel. These expectations will be most effective when the in-service curriculum reflects local conditions and circumstances. While the School Code only requires the in-service, the requirement presents an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for the in-service that instructs all district employees to maintain boundaries and act appropriately, professionally, and ethically with students. See discussion in f/n 4 in 5:100, *Staff Development Program*. After its discussion of these issues, the board may have further expectations and may choose to reflect those expectations here.

105 ILCS 5/10-23.13(c), amended by P.A. 102-610, requires districts to provide evidenced-informed training for school personnel on preventing, recognizing, reporting, and responding to child sexual abuse and grooming behavior by no later than January 31 of each year. See sample policy 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*, for further detail about the training requirements.

3. Employees maintain professional relationships with students, including maintaining employee-student boundaries based upon students' ages, grade levels, and developmental levels and following District-established guidelines for specific situations, including but not limited to: ⁷
 - a. Transporting a student;
 - b. Taking or possessing a photo or video of a student; and
 - c. Meeting with a student or contacting a student outside the employee's professional role.
4. Employees report prohibited behaviors and/or boundary violations pursuant to Board policies 2:260, *Uniform Grievance Procedure*; 2:265, *Title IX Sexual Harassment Grievance Procedure*; and 5:90, *Abused and Neglected Child Reporting*. ⁸
5. Discipline up to and including dismissal will occur for any employee who violates an employee conduct standard or engages in any of the following: ⁹
 - a. Violates expectations and guidelines for employee-student boundaries. ¹⁰
 - b. Sexually harasses a student. ¹¹
 - c. Willfully or negligently fails to follow reporting requirements of the Abused and Neglected Child Reporting Act (325 ILCS 5/),¹² Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 *et seq.*), or the Elementary and Secondary Education Act (20 U.S.C. § 7926). ¹³

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⁷ 325 ILCS 5/4(j), amended by P.A.s 101-564 and 102-604, requires district employees to complete mandated reporter training within three months of initial employment and at least every three years thereafter. See f/n 10 in sample policy 5:90, *Abused and Neglected Child Reporting*, for further detail about the training requirements.

⁸ 775 ILCS 5/2-109, added by P.A. 101-221, requires districts to provide annual workplace sexual harassment prevention training to all employees. See f/n 4 in sample policy 5:20, *Workplace Harassment Prohibited*, for further detail about the training requirements.

⁹ Required by 105 ILCS 5/10-23.13(b), amended by P.A. 102-610; 105 ILCS 5/22-85.5(d)(3), added by P.A. 102-676. Sample expectations and guidelines are contained in administrative procedure 5:120-AP2, E, *Expectations and Guidelines for Employee-Student Boundaries*.

¹⁰ Required by 105 ILCS 5/22-85.5(d)(4), added by P.A. 102-676. See also 105 ILCS 5/10-23.13(b), amended by P.A. 102-610.

¹¹ Required by 105 ILCS 5/22-85.5(f), added by P.A. 102-676.

¹² Sample expectations and guidelines are contained in administrative procedure 5:120-AP2, E, *Expectations and Guidelines for Employee-Student Boundaries*. These items are subjects of mandatory collective bargaining. Consult the board attorney for advice before establishing them.

¹³ The Ill. Human Rights Act makes it a civil rights violation to fail to take remedial action, or to fail to take appropriate disciplinary action, against any employee when the district knows that the employee committed or engaged in sexual harassment of a student. 775 ILCS 5/5A-102. Sexual harassment of a student is also prohibited by 2:265, *Title IX Sexual Harassment Grievance Procedure*, and 7:20, *Harassment of Students Prohibited*. Sexual harassment of an employee is also prohibited by policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, and 5:20, *Workplace Harassment Prohibited*.

¹⁴ 325 ILCS 5/4(a)(4), amended by P.A. 101-564; 105 ILCS 5/10-23.12(c) (all district employees), added by P.A. 101-531; 105 ILCS 5/21B-75(b) (teachers), amended by P.A.s 101-531, 102-552, and 102-702, eff. 7-1-23.

¹⁵ Required by 105 ILCS 5/22-85.5(d)(4), added by P.A. 102-676.

- d. Engages in *grooming* as defined in 720 ILCS 5/11-25. ¹⁴
- e. Engages in grooming behaviors. Prohibited grooming behaviors¹⁵ include, at a minimum, *sexual misconduct*. *Sexual misconduct*¹⁶ is any act, including but not limited to, any verbal, nonverbal, written, or electronic communication or physical activity, by an employee with direct contact with a student, that is directed toward or with a student to establish a romantic or sexual relationship with the student. Examples include, but are not limited to:
 - i. A sexual or romantic invitation.
 - ii. Dating or soliciting a date.
 - iii. Engaging in sexualized or romantic dialog.
 - iv. Making sexually suggestive comments that are directed toward or with a student.
 - v. Self-disclosure or physical exposure of a sexual, romantic, or erotic nature.
 - vi. A sexual, indecent, romantic, or erotic contact with the student.

Statement of Economic Interests

The following employees must file a *Statement of Economic Interests* as required by the Ill. Governmental Ethics Act: ¹⁷

- 1. Superintendent;
- 2. Building Principal;
- 3. Head of any department;

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

¹⁴ 720 ILCS 5/11-25(a), amended by P.A. 102-676, defines *grooming* as follows: “A person commits grooming when he or she knowingly uses a computer on-line service, Internet service, local bulletin board service, or any other device capable of electronic data storage or transmission, performs an act in person or by conduct through a third party, or uses written communication to seduce, solicit, lure, or entice, or attempt to seduce, solicit, lure, or entice, a child, a child’s guardian, or another person believed by the person to be a child or a child’s guardian, to commit any sex offense as defined in Section 2 of the Sex Offender Registration Act, to distribute photographs depicting the sex organs of the child, or to otherwise engage in any unlawful sexual conduct with a child or with another person believed by the person to be a child. As used in this Section, ‘child’ means a person under 17 years of age.”

¹⁵ Required by 105 ILCS 5/10-23.13(b), amended by P.A. 102-610.

¹⁶ Required by 105 ILCS 5/22-85.5(d)(2), added by P.A. 102-676. This definition of *sexual misconduct* is adapted from 105 ILCS 5/22-85.5(c), added by P.A. 102-676. It results from collaboration to implement some recommendations of the *Make Sexual and Severe Physical Abuse Fully Extinct (Make S.A.F.E.) Taskforce* and was endorsed by Stop Educator Sexual Abuse Misconduct & Exploitation (S.E.S.A.M.E.), a national organization working to prevent sexual exploitation, abuse, and harassment of students by teachers and other school staff. See www.sesamenet.org/ for further information.

¹⁷ 5 ILCS 420/4A-101.5, added by P.A. 101-221. See 5 ILCS 420/4A-102, amended by P.A.s 101-221, 102-664, and 102-813, for economic interests of an employee’s spouse or any other party that is considered the employee’s interests if the employee constructively controls them. Any county clerk may use a mandatory system of Internet-based filing of economic interest statements; if done, the clerk must post the statements, without the addresses, of the filers, on a publicly accessible website. 5 ILCS 420/4A-108, amended by P.A.s 101-221 and 102-664.

4. Any employee who, as the District's agent, is responsible for negotiating one or more contracts, including collective bargaining agreement(s), in the amount of \$1,000 or greater;
5. Hearing officer;
6. Any employee having supervisory authority for 20 or more employees; and
7. Any employee in a position that requires an administrative or a chief school business official endorsement.

Ethics and Gift Ban

Board policy 2:105, *Ethics and Gift Ban*, applies to all District employees.¹⁸ Students shall not be used in any manner for promoting a political candidate or issue.

Prohibited Interests; Conflict of Interest; and Limitation of Authority

In accordance with 105 ILCS 5/22-5, "no school officer or teacher shall be interested in the sale, proceeds, or profits of any book, apparatus, or furniture used or to be used in any school with which such officer or teacher may be connected," except when the employee is the author or developer of instructional materials listed with ISBE and adopted for use by the Board.¹⁹ An employee having an interest in instructional materials must file an annual statement with the Board Secretary.²⁰

For the purpose of acquiring profit or personal gain, no employee shall act as an agent of the District nor shall an employee act as an agent of any business in any transaction with the District. This includes participation in the selection, award, or administration of a contract supported by a federal award or State award governed by the Grant Accountability and Transparency Act (GATA) (30 ILCS 708/) when the employee has a real or apparent conflict of interest.²¹ A conflict of interest arises when an employee or any of the following individuals has a financial or other interest in or a tangible benefit from the entity selected for the contract:

1. A member of the employee's immediate family;

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¹⁸ The SOEEA prohibits State employees from engaging in certain political activities and accepting certain gifts. 5 ILCS 430/. It requires all school districts to adopt an *ordinance or resolution* "in a manner no less restrictive" than the Act's provisions. See sample policy 2:105, *Ethics and Gift Ban*.

Districts may not inhibit or prohibit employees from petitioning, making public speeches, campaigning for or against political candidates, speaking out on public policy questions, distributing political literature, making campaign contributions, and seeking public office. 50 ILCS 135/, Local Governmental Employees Political Rights Act. An employee may not use his/her position of employment to coerce or inhibit others in the free exercise of their political rights or engage in political activities at work. *Id.*

¹⁹ This sentence quotes 105 ILCS 5/22-5 because the statute does not define important terms making it difficult to paraphrase. No appellate decision defines *school officer* or *apparatus*, or what is meant by *connected*. The statute was enacted in 1961, but earlier versions were in the School Code much longer. A violation of this prohibition is a Class A misdemeanor.

²⁰ *Id.*

²¹ 2 C.F.R. §200.318(c)(1) prohibits employees, officers, or agents of a school district from participating in the selection, award, or administration of a contract supported by a federal award if they have a real or apparent *conflict of interest*. The uniform federal rules on procurement standards in 2 C.F.R. Part 200 also apply to eligible State grants through the Grant Accountability and Transparency Act (GATA) (30 ILCS 708/). Authoritative sources and guidance regarding conflict of interest and financial disclosure are provided through the GATA Resource Library at www.grants.illinois.gov. See also ISBE's *Procurement and Purchasing Checklist* at: www.isbe.net/Pages/Federal-and-State-Monitoring.aspx. See sample policy 2:100, *Board Member Conflict of Interest*, at ¶n 6, for further discussion.

2. An employee's partner²²; or
3. An entity that employs or is about to employ the employee or one of the individuals listed in one or two above.²³

Employees shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to agreements or subcontracts.²⁴ Situations in which the interest is not substantial or the gift is an unsolicited item of nominal value must comply with State law and Board policy 2:105, *Ethics and Gift Ban*.²⁵

Guidance Counselor Gift Ban²⁶

Guidance counselors are prohibited from intentionally soliciting or accepting any gift from a *prohibited source* or any gift that would be in violation of any federal or State statute or rule. For guidance counselors, a *prohibited source* is any person who is (1) employed by an institution of higher education, or (2) an agent or spouse of or an immediate family member living with a person employed by an institution of higher education. This prohibition does not apply to:

1. Opportunities, benefits, and services available on the same conditions as for the general public.
2. Anything for which the guidance counselor pays market value.
3. A gift from a relative.
4. Anything provided by an individual on the basis of a personal friendship, unless the guidance counselor believes that it was provided due to the official position or employment of the guidance counselor and not due to the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the guidance counselor must consider the circumstances in which the gift was offered, including any of the following:
 - a. The history of the relationship between the individual giving the gift and the guidance counselor, including any previous exchange of gifts between those individuals.
 - b. Whether, to the actual knowledge of the guidance counselor, the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift.

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

²² See sample policy 2:100, *Board Member Conflict of Interest*, at f/n 7 for a discussion of the term *partner*.

²³ 2 C.F.R. §200.318(c)(1).

²⁴ *Id.*

²⁵ *Id.* The rule provides flexibility for school districts to “set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value,” along with “disciplinary actions to be applied for violations.” Referring to sample policy 2:105, *Ethics and Gift Ban*, for these standards provides clarity and consistency. Sample policy 2:105 refers to **Limitations on Receiving Gifts** in the Ethics Act at 5 ILCS 430/10-10 – 10-30, along with discussion of the specific penalties available under the Ethics Act at 5 ILCS 430/50-5 in its **Enforcement** subhead.

²⁶ This section is only for those districts with a high school. 105 ILCS 5/22-93, added by P.A. 102-327 and renumbered by P.A. 102-813. *Guidance counselor* means a person employed by a school district and working in a high school to offer students advice and assistance in making career or college plans. *Id.*

- c. Whether, to the actual knowledge of the guidance counselor, the individual who gave the gift also, at the same time, gave the same or a similar gift to other school district employees.
- 5. Bequests, inheritances, or other transfers at death.
- 6. Any item(s) during any calendar year having a cumulative total value of less than \$100.
- 7. Promotional materials, including, but not limited to, pens, pencils, banners, posters, and pennants.

A guidance counselor does not violate this prohibition if he or she promptly returns the gift to the prohibited source or donates the gift or an amount equal to its value to a 501(c)(3) tax-exempt charity.

Outside Employment

Employees shall not engage in any other employment or in any private business during regular working hours or at such other times as are necessary to fulfill appropriate assigned duties.

Incorporated
by reference: 5:120-E (Code of Ethics for Ill. Educators)

LEGAL REF.: U.S. Constitution, First Amendment.
2 C.F.R. §200.318(c)(1).
5 ILCS 420/4A-101, Ill. Governmental Ethics Act.
5 ILCS 430/, State Officials and Employee Ethics Act.
30 ILCS 708/, Grant Accountability and Transparency Act.
50 ILCS 135/, Local Governmental Employees Political Rights Act.
105 ILCS 5/10-22.39, 5/10-23.13, 5/22-5, 5/22-85.5, and 5/22-93.
325 ILCS 5/, Abused and Neglected Child Reporting Act.
720 ILCS 5/11-25, Criminal Code of 2012.
775 ILCS 5/5A-102, Ill. Human Rights Act.
23 Ill.Admin.Code Part 22, Code of Ethics for Ill. Educators.
Pickering v. Board of Township H.S. Dist. 205, 391 U.S. 563 (1968).
Garcetti v. Ceballos, 547 U.S. 410 (2006).

CROSS REF.: 2:105 (Ethics and Gift Ban), 2:265 (Title IX Sexual Harassment Grievance Procedure), 4:60 (Purchases and Contracts), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 5:90 (Abused and Neglected Child Reporting), 5:100 (Staff Development Program), 5:125 (Personal Technology and Social Media; Usage and Conduct), 5:200 (Terms and Conditions of Employment and Dismissal), 5:290 (Employment Terminations and Suspensions), 7:20 (Harassment of Students Prohibited)

Professional Personnel

Teacher Qualifications¹

A teacher, as the term is used in this policy, refers to a District employee who is required to be licensed under State law.² The following qualifications apply:

1. Each teacher must:³
 - a. Have a valid Illinois Professional Educator License issued by the State Superintendent of Education with the required endorsements as provided in the School Code.
 - b. Provide the District Office with a complete transcript of credits earned in institutions of higher education.
 - c. On or before September 1 of each year, unless otherwise provided in an applicable collective bargaining agreement, provide the District Office with a transcript of any credits earned since the date the last transcript was filed.
 - d. Notify the Superintendent of any change in the teacher's transcript.
2. All teachers working in a program supported with federal funds under Title I, Part A must meet applicable State certification and licensure requirements.⁴

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

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

² 105 ILCS 5/21B et seq., amended by P.A. ~~102-894~~~~100-596~~; 23 Ill.Admin.Code §§1.610-~~et seq.~~, §1.705-~~et seq.~~, and Part 25 (educator licensure); 105 ILCS 5/27-24.2, amended by P.A. 101-450; and 23 Ill.Admin.Code Part 252 (contracted driver education teacher).

School boards may participate in the Illinois Teacher Corps; however as of 9-1-11 individuals may no longer be admitted to Illinois Teacher Corps programs. 105 ILCS 5/21-11.4, repealed in 2013.

³ Subparagraph 1a is required for all teachers by 105 ILCS 5/21B-15 (qualifications of educators). Four types of educator licenses are listed in 105 ILCS 5/21B-20, amended by P.A.s ~~100-596 and~~ 101-643 and 102-894: (1) Professional Educator License; (2) Educator License with Stipulations (including endorsements for alternative provisional educator, alternative provisional superintendent, career and technical educator, ~~provisional career and technical educator~~, transitional bilingual educator, language, visiting international educator, paraprofessional educator, chief school business official, provisional in-state educator, school support personnel intern, and special education area); (3) Substitute Teaching License; and (4) until 6-30-23, Short-Term Substitute Teaching License. Districts may not require an individual who holds a valid Professional Educator License or Educator License with Stipulations to seek or hold a Substitute Teaching License to teach as a substitute teacher. 105 ILCS 5/21B-20(3), ~~added by P.A. 100-596~~. See also 23 Ill.Admin.Code §§1.610-~~et seq.~~, §1.705-~~et seq.~~ and Part 25 (per §25.100, teachers are no longer endorsed in any course subjects in which they earn grades lower than a "C-" or equivalent in college). The Ill. State Board of Education's (ISBE) *Educator Licensure Information System* (ELIS) is a web-based system that allows educators, administrators, and the public to access licensure information. See www.isbe.net/Pages/Educator-Licensure-Information-System.aspx.

Subparagraph 1b and 1c are required of all teachers by 105 ILCS 5/24-23. Some boards add the word "official" to the phrase, "complete official transcript of credits."

Subparagraph 1d is optional but informs the superintendent when a teacher may be eligible to change lanes on the salary schedule.

The Superintendent or designee shall:

1. Monitor compliance with State and federal law requirements that teachers be appropriately licensed; ⁵
2. Through incentives for voluntary transfers, professional development, recruiting programs, or other effective strategies, ensure that minority students and students from low-income families are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers; and
3. Ensure parents/guardians of students in schools receiving Title I funds are notified of their right to request their students' classroom teachers' professional qualifications. ⁶

LEGAL REF.: 20 U.S.C. §6312(e)(1)(A).
105 ILCS 5/10-20.15, 5/21-11.4, 5/21B-15, 5/21B-20, 5/21B-25, and 5/24-23.
23 Ill.Admin.Code §1.610 et seq., §1.705 et seq., and Part 25.

CROSS REF.: 6:170 (Title I Programs)

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

⁴ The *highly qualified* teacher requirement of the No Child Left Behind Act, formerly found in §6319 of the Elementary and Secondary Education Act (ESEA, 20 U.S.C. §6319), was repealed by the Every Student Succeeds Act (ESSA, Pub. L. 114-95, eff. 12-10-15). ESEA federal implementing regulation 34 C.F.R. §200.55 was updated on 7-7-17 (82 Fed. Reg. 31706), ~~however and~~ State implementing regulations at 23 Ill. Admin.Code Part 25, Appendix D ([criteria for identification of teachers as highly qualified](#)) were finally repealed ~~have not been updated yet on 6-3-21~~. [Information on State implementation of ESSA is available at: \[www.isbe.net/essa\]\(http://www.isbe.net/essa\). In Every Student Succeeds Act \(ESSA\) Frequently Asked Questions \(8-12-16\) \(\[www.isbe.net/Documents/ESSA_faq.pdf\]\(http://www.isbe.net/Documents/ESSA_faq.pdf\)\)](#), ISBE advised that districts did not need to comply with the *highly qualified* teacher requirement during the 2016-17 school year.

ESEA, as amended by ESSA, requires that each state plan contain assurances that the state educational agency will ensure that all teachers and paraprofessionals meet state certification/licensure requirements. 20 U.S.C. §6311(g)(2)(J).

⁵ See the ISBE webpage on educator licensure approval requirements at www.isbe.net/Pages/educator-licensure-approvals.aspx.

ESEA, as amended by ESSA, requires districts to provide parents timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable State certification or licensure requirements at the grade level and subject area in which the teacher has been assigned. 20 U.S.C. §6312(e)(1)(B)(ii). For a sample notice, see 5:190-E2, *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*.

⁶ 20 U.S.C. §6312(e)(1)(A).

Professional Personnel

Terms and Conditions of Employment and Dismissal ¹

The School Board delegates authority and responsibility to the Superintendent to manage the terms and conditions for the employment of professional personnel. The Superintendent shall act reasonably and comply with State and federal law as well as any applicable individual employment contract or collective bargaining agreement in effect. The Superintendent is responsible for making dismissal recommendations to the Board consistent with the Board's goal of having a highly qualified, high performing staff. ²

School Year

Teachers shall work according to the school calendar adopted by the Board, which shall have a minimum of 176 student attendance days and a minimum of 180 teacher work days, including teacher institute days.³ Teachers are not required to work on legal school holidays unless the District has followed applicable State law that allows it to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on the third Monday in January (the Birthday of Dr. Martin Luther King, Jr.); February 12 (the Birthday of President Abraham Lincoln); the first Monday in March (known as Casimir Pulaski's birthday); the second Monday in October (Columbus Day); and November 11 (Veterans Day). ⁴

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

¹ State or federal law controls this policy's content. This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. The local collective bargaining agreement may contain provisions that exceed these requirements. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement."

Evaluation, tenure, and dismissals changed significantly from 2013 to 2016 as P.A.s 96-861, 97-8, and 98-513 were implemented. These public acts are referred to as *Education Reform* or *Education Reform Acts*.

² This paragraph is consistent with the IASB's *Foundational Principles of Effective Governance*, at: www.iasb.com/IASB/media/Documents/found_prin.pdf. Boards have three options for using this paragraph: (1) use it as an introduction to the policy; (2) use it alone leaving the specific other topics for administrative implementation; or (3) do not use it.

³ 105 ILCS 5/10-19, amended by P.A.s 101-12 and 101-643. See 6:20, *School Year Calendar and Day*.

⁴ 105 ILCS 5/24-2(b). See [sample policy](#) 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing as well as a discussion of the case finding the State-mandated school holiday on Good Friday unconstitutional. 105 ILCS 5/24-2, amended by P.A.s 101-642, 102-14, 102-15, and 102-334, and 102-411, prohibits districts from making a deduction "from the time or compensation of a school employee on account of any legal or special holiday."

~~10 ILCS 5/2B-10, added by P.A. 101-642,~~ 10 ILCS 5/2A-1.1c, added by P.A. 102-15 and scheduled to be repealed on 1-1-23, and 105 ILCS 5/24-2(e), amended by P.A.s 101-642 and 102-15, designated 2020 Election Day on 11-3-2020 and 2022 Election Day on 11-8-22 as legal school holidays for purposes of 105 ILCS 5/24-2. ~~10 ILCS 5/2B-10, added by P.A. 101-642,~~ and 10 ILCS 5/2A-1.1c, added by P.A. 102-15 and scheduled to be repealed on 1-1-23, requires any school closed on ~~2020 or~~ 2022 Election Day to make itself available to an election authority as a polling place on those days.

No waiver exists for 2022 Election Day. 105 ILCS 5/24-24(b) and (e), amended by P.A.s 101-642 and 102-15.

School Day

Teachers are required to work the school day adopted by the Board.⁵ Teachers employed for at least four hours per day shall receive a duty-free lunch equivalent to the student lunch period, or 30 minutes, whichever is longer.⁶

The District accommodates employees who are nursing mothers according to provisions in State and federal law.⁷

Salary

Teachers shall be paid according to the salaries fixed by the Board, but in no case less than the minimum salary provided by the School Code.⁸ Teachers shall be paid at least monthly on a 10- or 12-month basis.⁹

Assignments and Transfers

The Superintendent is authorized to make teaching, study hall, extra class duty, and extracurricular assignments.¹⁰ In order of priority, assignments shall be made based on the District's needs and best interests, employee qualifications, and employee desires.

School Social Worker Services Outside of District Employment

School social workers may not provide services outside of their District employment to any student(s) attending school in the District. *School social worker* has the meaning stated in 105 ILCS 5/14-1.09a.¹¹

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

⁵ A school day is required to consist of a minimum of five clock hours under the direct supervision of a teacher or non-teaching personnel or volunteer personnel that provides non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a) in order to qualify as a full day of attendance. 105 ILCS 5/10-19.05(a) and (j-5), added by P.A. 101-12 and amended by P.A. 101-643. See www.isbe.net/school-calendar for ISBE's instructional day changes notice regarding this law. See 105 ILCS 5/10-19.05, added by P.A. 101-12 and amended by P.A. 101-643, for additional exceptions to the attendance calculation.

⁶ 105 ILCS 5/24-9.

⁷ 740 ILCS 137; 820 ILCS 260. Ill. law requires more of employers than federal law. Consult the board attorney to ensure the district is properly accommodating nursing mothers. See 5:10-AP, *Workplace Accommodations for Nursing Mothers*.

⁸ 105 ILCS 5/10-20.7, 5/10-21.1, 5/24-1, and 5/24-8, amended by P.A. 101-443 (minimum salary). Salaries are a mandatory subject of collective bargaining. 115 ILCS 5/10. Annually, by Oct. 1, each district must: (1) during an open school board meeting, report salary and benefits information for the superintendent, administrators, and teachers; (2) publish that information on the district's website, if any; and (3) provide this information to ISBE. 105 ILCS 5/10-20.47. According to a Public Access Counselor (PAC) *Informal Mediation* letter interpreting 5 ILCS 120/7.3, an IMRF employer must post on its website the names of employees having a total compensation package that exceeds \$75,000 per year. 2012 PAC 19808 (Informal Mediation by the Ill. Attorney General's Public Access Counselor (PAC)); see PAC Annual Report for 2012 at https://foiapac.ilag.gov/viewpdf.aspx?P=-/content/pdf/Public_Access_Counselor_Annual_Report_2012.pdf www.foia.ilatterneygeneral.net/pdf/Public_Access_Counselor_Annual_Report_2012.pdf.

⁹ 105 ILCS 5/24-21.

¹⁰ Districts are required to have a policy on the distribution of the listed assignments. 23 Ill.Admin.Code §1.420(d). Absent an individual or collective bargaining agreement, the board has unilateral discretion to assign or retain a teacher to or in an extracurricular duty. *Betebner v. Bd. of Educ.*, 336 Ill.App. 448 (4th Dist. 1949); *Dist. 300 Educ. Assoc. v. Bd. of Educ.*, 31 Ill.App.3d 550 (2nd Dist. 1975); *Lewis v. Bd. of Educ.*, 181 Ill.App.3d 689 (5th Dist. 1989).

¹¹ Optional. This subhead provides information to district employees and the community that 105 ILCS 5/14-1.09a prohibits school social workers from moonlighting by providing services to students attending the districts in which they are employed. Delete "5/10-20.65, 5/14-1.09a," from the Legal References if the board deletes this subhead.

Dismissal

The District will follow State law when dismissing a teacher. ¹²

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

¹² All dismissal laws in the chart below were amended by the *Education Reform Acts*. 105 ILCS 5/24A-5.5, added by P.A. 101-591, requires districts to develop and implement a local appeals process for unsatisfactory ratings issued to teachers under 105 ILCS 5/24A-5, amended by P.A.s 101-643, [and 102-252](#), [and 102-729](#). Districts must: (1) develop the process in cooperation with the bargaining unit or teachers, if applicable, and (2) include an assessment of the original rating by a panel of qualified evaluators agreed to by the PERA joint committee (105 ILCS 5/24A-4(b)).

Non-tenure Teacher Discharge	105 ILCS 5/24-11, amended by P.A.s 101-643 and 102-552
Tenured and Non-tenure Teachers Reduction in Force	105 ILCS 5/24-12(b), amended by P.A. 101-643, and (c)
Tenured Teacher Discharge Where Cause Remediable	105 ILCS 5/24-12(d) (prior reasonable warning required), amended by P.A.s 101-531, 101-643, and 102-708. 105 ILCS 5/24-12(d) (procedural mandates), amended by P.A.s 101-531, 101-643, and 102-708. 105 ILCS 5/10-22.4 (general authority)
Tenured Teacher Discharge Where Cause Irremediable	105 ILCS 5/24-12(d) (no prior warning required) amended by P.A.s 101-531, 101-643, 102-708. 105 ILCS 5/24-12(d) (procedural mandates), amended by P.A.s 101-531, 101-643, and 102-708. 105 ILCS 5/10-22.4 (general authority)
Tenured Teacher Discharge Failure to complete remediation plan with a rating of <i>Proficient or Excellent</i>	105 ILCS 5/24A-5(m) (participation in remediation plan after unsatisfactory evaluation) 105 ILCS 5/24-12(d)(1), amended by P.A. 101-643 (no prior warning required if cause(s) were subject of remediation plan) 105 ILCS 5/24-12(d) (procedural mandates), amended by P.A.s 101-531, 101-643, and 102-708. 105 ILCS 5/10-22.4 (general authority)
Tenured Teacher Discharge – Optional Alternative Evaluative Dismissal Process for PERA Evaluation Failure to complete remediation plan with a <i>Proficient</i> or better rating 105 ILCS 5/24A-2.5	105 ILCS 5/24-16.5(d) (provide written notice) 105 ILCS 5/24-16.5 (pre-remediation and remediation procedural mandates) 105 ILCS 5/24-16.5(e) and (f) (school board makes final decision with only PERA-trained board members participating in vote)
Tenured Teacher Discharge – Unsatisfactory PERA evaluation within 36 months of completing a remediation plan 105 ILCS 5/24A-2.5	105 ILCS 5/24A-5(n), amended by P.A. 102-252 (forego remediation and proceed to dismissal) 105 ILCS 5/24-12(d) (procedural mandates), amended by P.A.s 101-531, 101-643, 102-708. 105 ILCS 5/10-22.4 (general authority)
Educational Support Personnel Employees (non-licensed)	105 ILCS 5/10-23.5, amended by P.A.s 101-46 and 102-854.
Probationary Teacher (non-tenure teacher)	105 ILCS 5/24-11, amended by P.A.s 101-643, 102-552, and 102-854.

Various components of a RIF (e.g., impact and decision to RIF) and an evaluation plan (e.g., development, implementation, and impact) may be subject to mandatory collective bargaining. *Central City Educ. Assoc. v. IELRB*, 149 Ill.2d 496 (Ill. 1992).

Teacher RIF procedures were changed by 105 ILCS 5/24-12(b), amended by P.A. 101-643, [and \(c\)](#). See *PERA Overview for School Board Members*, question 153, “What is the process for selecting teachers for a reduction in force/layoff (RIF)” at: www.iasb.com/law/PERAoverview.pdf.

[State law does not prohibit a PERA joint committee from agreeing to put a teacher on a remediation plan if the teacher receives a second *needs improvement* \(rather than *unsatisfactory*\) rating after being on a professional development plan. *Bd. of Educ. Rockford Public Sch. v. Rentsch*, 2022 IL App \(2d\) 210187.](#)

Evaluation

The District's teacher evaluation system will be conducted under the plan developed pursuant to State law.¹³

On an annual basis, the Superintendent will provide the Board with a written report which outlines the results of the District's teacher evaluation system.

LEGAL REF.: 105 ILCS 5/10-19, 5/10-19.05, 5/10-20.65, 5/14-1.09a, 5/22.4, 5/24-16.5, 5/24-2, 5/24-8, 5/24-9, 5/24-11, 5/24-12, 5/24-21, 5/24A-1 through 24A-20.
820 ILCS 260/, Nursing Mothers in the Workplace Act.
23 Ill.Admin.Code Parts 50 (Evaluation of Educator Licensed Employees) and 51 (Dismissal of Tenured Teachers).
Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (1985).

CROSS REF.: [5:120 \(Employee Ethics; Code of Professional Conduct; and Conflict of Interest\)](#), 5:290 (Employment Termination and Suspensions), 6:20 (School Year Calendar and Day)

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According to a binding opinion from the Ill. Public Access Counselor, a board must identify an employee by name in a motion to dismiss him or her. PAO 13-16. As this may be a significant change in practice with possible other legal consequences, a board should consult with the board attorney on this issue before dismissing an employee.

¹³ 105 ILCS 5/24A-5, amended by P.A.s 102-252 [and 102-729](#). Teacher evaluation plans are covered in *PERA Overview for School Board Members* at: www.iasb.com/law/PERAoverview.pdf.

Professional Personnel

Substitute Teachers¹

The Superintendent may employ substitute teachers as necessary to replace teachers who are temporarily absent.

A substitute teacher must hold either a valid teaching or substitute license ~~or short term substitute license~~ and may teach in the place of a licensed teacher who is under contract with the Board.² There is no limit on the number of days that a substitute teacher may teach in the District during the school year, except as follows:³

1. A substitute teacher holding a substitute license may teach for any one licensed teacher under contract with the District only for a period not to exceed 120 days beginning with the 2021-2022 through the 2022-2023 school year, otherwise 90 paid school days in any one school term.
2. A teacher holding a Professional Educator License⁴ or Educator License with Stipulations⁵ may teach for any one licensed teacher under contract with the District only for a period not to exceed 120 paid school days.
- ~~3. A short term substitute teacher holding a short term substitute teaching license may teach for any one licensed teacher under contract with the District only for a period not to exceed five consecutive school days.⁶~~

The Ill. Teachers' Retirement System (TRS) limits a substitute teacher who is a TRS annuitant to substitute teaching for a period not to exceed 120 paid days or 600 paid hours in each school year, but not more than 100 paid days in the same classroom. Beginning July 1, 2023, a substitute teacher who

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¹ State law controls this policy's content. Policy 5:30, *Hiring Process and Criteria*, contains the requirements for pre-employment investigations, e.g., a fingerprint based criminal history records check. See also 5:30-AP2, *Investigations*. Each board may require new substitute teacher employees to furnish evidence of physical fitness to perform duties assigned and must require new substitute teacher employees to furnish evidence of freedom from communicable disease. 105 ILCS 5/24-5(b-5). Evidence may consist of a physical examination, which must be performed within 90 days before the time it is presented to the board, and the substitute teacher bears the cost of the physical examination. *Id.* A new or existing substitute teacher may also be subject to additional health examinations as required by the Ill. Dept. of Public Health or by order of a local public health official. *Id.*

² 23 Ill.Admin.Code §1.790(a)(2), requires that any individual who serves as a substitute teacher for driver's education be endorsed for driver's education pursuant to 23 Ill.Admin.Code §25.100(k). 23 Ill.Admin.Code §25.100(k) has been renumbered as 23 Ill.Admin.Code §25.100(h), however §1.790(a)(2) still cites to §25.100(k).

³ Substitute teaching licenses are governed by 105 ILCS 5/21B-20(3), amended by P.A. 102-717; 23 Ill.Admin.Code §§1.790 and 25.520.

⁴ Professional educator licenses are governed by 105 ILCS 5/21B-20(1) and 23 Ill.Admin.Code Part 25.

⁵ Educator licenses with stipulations are governed by 105 ILCS 5/21B-20(2), amended by P.A. 101-594 and 102-894, eff. 1-1-23, and 23 Ill.Admin.Code Part 25. 105 ILCS 5/21B-20(2)(E) permits an individual who holds a valid career and technical educator endorsement on an Educator License with Stipulations but who does not hold a bachelor's degree to substitute teach in career and technical education classrooms. ~~Similarly, 105 ILCS 5/21B-20(2)(F) permits an individual who holds a provisional or part-time provisional career and technical educator endorsement on an Educator License with Stipulations but who does not hold a bachelor's degree to substitute teach in career and technical education classrooms.~~

⁶ ~~105 ILCS 5/21B-20(4), amended by P.A. 102-712. Districts may not hire a short-term substitute teacher for teacher absences lasting six or more days. *Id.*~~

Commented [DJ1]: Short-term substitutes are now confined to their own subhead below.

is a TRS annuitant may substitute teach for a period not to exceed 100 paid days or 500 paid hours in any school year, unless the subject area is one where the Regional Superintendent has certified that a personnel shortage exists. ⁷

The School Board establishes a daily rate of pay for substitute teachers. Substitute teachers receive only monetary compensation for time worked and no other benefits. ⁸

Short-Term Substitute Teachers ⁹

A short-term substitute teacher must hold a valid short-term substitute teaching license and have completed the District's short-term substitute teacher training program. ¹⁰ [Unless otherwise permitted by law, short-term substitutes may teach no more than five consecutive school days for each licensed teacher who is under contract with the Board.](#) ¹¹

Emergency Situations ¹²

A substitute teacher may teach when no licensed teacher is under contract with the Board if the District has an emergency situation as defined in State law. During an emergency situation, a substitute teacher is limited to 30 calendar days of employment per each vacant position. The

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⁷ 40 ILCS 5/16-118, amended by P.A.s 101-645 (specifying permissible paid days and hours for TRS annuitants), ~~and 102-537, 102-709 (temporarily allowed for 140 paid days or 700 paid hours between 7-1-21 and 6-30-22)~~ and 16-150.1, amended by P.A.s 101-49 and 102-440 (TRS annuitants may return to teaching in a subject shortage area until 6-30-24). Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center."

⁸ If a board provides substitute teachers other benefits, it may consider listing them here.

⁹ 105 ILCS 5/21B-20(4), ~~amended by P.A. 102-712 and inoperative on and after 7-1-23,~~ governs Short-Term Substitute Teaching Licenses, which may be issued from 7-1-18 until 6-30-23. Short-Term Substitute Teaching Licenses are not eligible for endorsements. *Id.* Applicants for a Short-Term Substitute Teaching License must hold an associate's degree or have completed at least 60 credit hours from a regionally accredited institution of higher education. Individuals who have had their Professional Educator License or Educator License with Stipulations suspended or revoked are not eligible to be short-term substitutes. ~~*Id.* Short-term substitutes may not be hired for teacher absences lasting six or more days. *Id.* 105 ILCS 5/21B-20(4) repeals on 7-1-23.~~

¹⁰ 105 ILCS 5/10-20.67, ~~scheduled to be repealed on 7-1-23,~~ requires boards to conduct this training. This requirement provides an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for a short-term substitute teacher training program that provides individuals who hold a Short-Term Substitute Teaching License with information on curriculum, classroom management techniques, school safety, and district and building operations. See also 5:220-AP, *Substitute Teachers*, and ¶ 3 in 5:220-AP. These expectations will be most effective when they reflect local conditions and circumstances. Training and curriculum for a short-term substitute teacher training program may be subjects of mandatory collective bargaining, therefore consulting with the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing new programs for staff without first offering to negotiate them with the applicable exclusive bargaining representative.

School boards may choose to also offer this training program to individuals who hold a Substitute Teaching License and/or substitute teachers holding a Professional Educator License. This provision repeals on 7-1-23.

¹¹ ~~See *fn 6* Through 6-30-23, a district may hire a short-term substitute teacher holding a short-term substitute teaching license for up to 15 consecutive school days for each licensed teacher if the Governor has declared a disaster due to a public health emergency pursuant to the Ill. Emergency Management Agency Act, 40520 ILCS 3305/7. 105 ILCS 5/21B-20(4), amended by P.A. 102-712 and inoperative on and after 7-1-23.~~

¹² 105 ILCS 5/21B-20(3). An *emergency situation* is defined as one where an unforeseen vacancy has occurred and (i) a teacher is unable to fulfill his or her contractual duties, or (ii) the district's teacher capacity needs exceed previous indications and the district is actively engaged in advertising to hire a fully licensed teacher for the vacant position. *Id.*

Use this alternative for districts in suburban Cook County: replace "Regional Office of Education" with "appropriate Intermediate Service Center."

Superintendent shall notify the appropriate Regional Office of Education within five business days after the employment of a substitute teacher in an emergency situation.

LEGAL REF.: 105 ILCS 5/10-20.68, 5/21B-20(2), 5/21B-20(3), and 5/21B-20(4).
[40 ILCS 5/16-118, Ill. Pension Code.](#)
23 Ill.Admin.Code §1.790 (Substitute Teacher) and §25.520 (Substitute Teaching License).

CROSS REF.: 5:30 (Hiring Process and Criteria)

DRAFT

Professional Personnel

Leaves of Absence ¹

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

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

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. It also provides policy coverage for those professional personnel who are not included in a bargaining unit or have employment contracts with conflicting provisions. Alternatively, if the policy’s subject matter is superseded by a bargaining agreement, the board policy may state, “Please refer to the applicable collective bargaining agreement(s).”

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA) (29 U.S.C. §2612), amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (1) the birth and first-year care of a child; (2) the adoption or foster placement of a child; (3) the serious health condition of an employee’s spouse, parent, or child; (4) the employee’s own serious health condition; (5) the existence of any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is on *covered active duty*; and (6) to care for the employee’s spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness. Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee’s FMLA entitlement. 29 C.F.R. §825.207. See [sample](#) policy 5:185, *Family and Medical Leave*.

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

Sick and Bereavement Leave ²

Each full-time professional staff member is granted 10 days sick leave each school year at full pay. Unused days are allowed to accumulate to 180 days. Sick leave is defined in State law as personal illness, [mental or behavioral health complications](#), quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, placement for adoption, or the acceptance of a child in need of foster care.

As a condition for paying sick leave after three days absence for personal illness or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may require that the staff member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, [\(2\) a mental health professional licensed in Illinois providing ongoing care or treatment to the staff member](#), [\(32\) a chiropractic physician licensed under the Medical Practice Act](#), [\(43\) a licensed advanced practice registered nurse](#), [\(54\) a licensed physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician](#), or [\(65\) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith](#). If the Board or Superintendent requires a certificate during a leave of less than three days for personal illness, the District shall pay the expenses incurred by the employee.

Staff members are entitled to use up to 30 days of paid sick leave because of the birth of a child that is not dependent on the need to recover from childbirth. Such days may be used at any time within the 12-month period following the birth of the child. Intervening periods of nonworking days or school not being in session, such as breaks and holidays, do not count towards the 30 working school days. As a condition of paying sick leave beyond the 30 working school days, the Board or Superintendent may require medical certification. ³

For purposes of adoption, placement for adoption, or acceptance of a child in need of foster care, paid sick leave may be used for reasons related to the formal adoption or the formal foster care process

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² The provisions in this section are required by 105 ILCS 5/24-6, amended by P.A.s 102-275, [102-697](#), and [102-866](#). Each specified number of days in this section is the statutory minimum. Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements.

[105 ILCS 5/24-6, amended by P.A.s 102-275, 102-697 and 102-866, requires districts to return any sick leave days used by a teacher for a qualifying COVID-19 related reason during the 2021-2022 school year, provided the teacher was "fully vaccinated against COVID-19" by 5-10-22. See f/n 26, below. The law prohibits districts from rescinding the returned sick leave in the event the definition of "fully vaccinated against COVID-19" is later updated by the Centers for Disease Control and Prevention \(CDC\) or the Ill. Dept. of Public Health \(IDPH\) to include recommended booster doses. 105 ILCS 5/24-6, amended by P.A.s 102-275, 102-697, and 102-866.](#)

Consult the board attorney about the Employee Sick Leave Act (ESLA). 820 ILCS 191/, amended by P.A. 102-4. It prohibits employers from limiting the use of sick time to an employee's own illnesses and allows employees to use employer-provided sick leave due to illness, injury, medical appointment, or *personal care* of a *covered family member*. *Id.* at 191/10(a), amended by P.A. 102-4. *Personal care* means: (1) activities to ensure a covered family member's basic medical, hygiene, nutritional, or safety needs are met, or to provide transportation to medical appointments, for a covered family member unable to meet those needs himself or herself; and (2) being physically present to provide emotional support to a covered family member with a serious health condition who is receiving inpatient or home care. *Id.* at 191/5, amended by P.A. 102-4. The ESLA defines *covered family members* as an employee's child, stepchild, spouse, domestic partner, sibling, parent, mother- or father-in-law, grandchild, grandparent, or stepparent. *Id.* Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury.

³ 105 ILCS 5/24-6, amended by P.A. 102-275, overturned the Illinois Supreme Court's decision in *Dynak v. Bd. of Educ. of Wood Dale Sch. Dist. 7*, [164 N.E.3d 1226444 Ill.Dec. 651](#) (Ill. 2020) (finding that a teacher was not entitled to use 30 days of sick leave for birth consecutively before and after an intervening summer break). It is unclear from the language of the statute if an employee can be prohibited from *intermittent* use of 30 working sick days for birth, e.g., such as taking leave once a week. Consult the board attorney for guidance on this issue.

prior to taking custody of the child or accepting the child in need of foster care, and for taking custody of the child or accepting the child in need of foster care. Such leave is limited to 30 days, unless a longer leave is provided in an applicable collective bargaining agreement, and need not be used consecutively once the formal adoption or foster care process is underway. The Board or Superintendent may require that the employee provide evidence that the formal adoption or foster care process is underway. ⁴

FamilyChild Bereavement Leave ⁵

State law allows a maximum of 10 unpaid work days for eligible employees (Family and Medical Leave Act of 1993, 20 U.S.C. §2601 et seq.) to take familychild bereavement leave. The purpose, requirements, scheduling, and all other terms of the leave are governed by the FamilyChild Bereavement Leave Act. Eligible employees may use familyChild bereavement leave, without any adverse employment action, allows for: (1) attendance by the bereaved staff member at the funeral or alternative to a funeral of his or her child, a covered family member, which includes an employee's child, stepchild, domestic partner, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent, or stepparent (2) making arrangements necessitated by the death of the staff member's child, covered family member, or (3) grieving the death of the staff member's child, covered family member, or (4) absence from work due to a Significant Event, which includes: (i) miscarriage, (ii) an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure, (iii) a failed adoption match or an adoption that is not finalized because it is contested by another party, (iv) a failed surrogacy agreement, (v) a diagnosis that negatively impacts pregnancy or fertility, or (vi) a still birth. without any adverse employment action. An employee qualifying for leave due to a Significant Event will not be required to identify which specific reason applies to the employee's request.

The leave must be completed within 60 days after the date on which the employee received notice of the death of his or her child, the covered family member or the date on which an event under item (4) above occurs. However, in the event of the death of more than one child-covered family member in a 12-month period, an employee is entitled to up to a total of six weeks of bereavement leave during the 12-month period, subject to certain restrictions under State and federal law. Other existing forms of leave may be substituted for the leave provided in the FamilyChild Bereavement Leave Act. This

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⁴ 105 ILCS 5/24-6, amended by P.A.s 102-275, 102-697, and 102-866.

⁵ FamilyChild Bereavement Leave Act, 820 ILCS 154/, amended by P.A. 102-1050, eff. 1-1-23; 56 Ill.Admin.Code Part 252. These paragraphs discuss familychild bereavement leave. 820 ILCS 154/5, defines an *eligible employee* under the same terms as an employee under FMLA (29 U.S.C. 2601 et seq.). See f/n 1 above. The employer may require reasonable documentation as specified in 105820 ILCS 154/10(d), amended by P.A. 102-1050, eff. 1-1-23, but may not require that an employee identify which specific category under item (4) in the first paragraph of this subhead pertains to the leave. Note the term Significant Event does not appear in the statute; it is included in this sample policy as a shorthand term to refer to those events listed in 820 ILCS 154/10(a)(4).

Domestic partner, when used to refer to an unmarried employee, includes: (1) the person recognized as the domestic partner of the employee under any domestic partnership or civil union law of a state or political subdivision of a state, or (2) an unmarried adult who is in a committed, personal relationship with the employee, who is not a domestic partner as described in item (1) and who the employee designates as that employee's domestic partner. 820 ILCS 154/5, amended by P.A. 102-1050, eff. 1-1-23.

The Act also provides that the leave must be completed within 60 days of the employee learning of the death of his or her covered family member, child, as defined by 820 ILCS 154/5. However, that 60-day limitation does not apply when one more than one covered family member, child dies in a 12-month period. There may be times when one an employer may want to grant more than 10 unpaid work days, e.g., when a deceased covered family member, child lived in a foreign country, etc. Consult the board attorney to resolve the complexities of determining whether an employee is an eligible employee under the FMLA that would trigger this Act.

policy does not create any right for an employee to take ~~familychild~~ bereavement leave that is inconsistent with the FamilyChild Bereavement Leave Act.

Sabbatical Leave ⁶

Sabbatical leave may be granted in accordance with the School Code.

Personal Leave ⁷

Professional staff members are granted one personal leave day per year. A personal leave day is defined as a day to allow professional personnel time to conduct personal business (but not vacation, travel, or work stoppage), which is impossible to schedule at a time other than during a school day. Any unused personal leave day in a school year will be credited to the cumulative sick leave.

The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, personal leave requests should be submitted to the Building Principal three days in advance of the requested date,
2. No personal leave days may be used immediately before or immediately after a holiday unless the Superintendent grants prior approval,
3. Personal leave may not be used in increments of less than one-half day,
4. Personal leave days are subject to a substitute's availability,
5. Personal leave days may not be used during the first and/or last five days of the school year,
6. Personal leave days may not be used on in-service and/or institute training days, and
7. Personal leave may not be used by more than 10% of the teaching staff in each building at the same time.

Leave of Absence Without Pay ⁸

The Board may grant a leave of absence without pay to tenured professional staff members who have rendered satisfactory service and desire to return to employment in a similar capacity at a time determined by the Board.

Each leave of absence shall be of the shortest possible duration required to meet the leave's purpose consistent with a reasonable continuity of instruction for students.

Leave to Serve as an Election Judge ⁹

Any staff member who was appointed to serve as an election judge under State law may, after giving at least 20-days' written notice to the District, be absent without pay for the purpose of serving as an election judge. The staff member is not required to use any form of paid leave to serve as an election

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⁶ State law provides guidelines for sabbatical leaves but does not require boards to offer them. 105 ILCS 5/24-6.1.

⁷ State law does not address personal leave. It is not uncommon for professional staff to be granted more than one day of personal leave per year.

⁸ State law does not address leaves of absence without pay other than stating that a mutually agreed leave will not affect a teacher's contractual continued service. 105 ILCS 5/24-13.

⁹ This paragraph restates 10 ILCS 5/13-2.5. The statute does not state whether the notice requirement is *calendar* days or *business* days. Support for it being *calendar* days is found in 10 ILCS 5/1-6; support for it being *business* days is found in 10 ILCS 5/1-3.

Rather than duplicate the statute's requirements in separate policies, sample policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, grants the leave to support personnel on the terms applicable to professional staff.

judge. No more than 10% of the District's employees may be absent to serve as election judges on the same Election Day.

Child-Rearing Leave ¹⁰

The Board shall grant a professional staff member's request for a non-paid, child-rearing leave, not to exceed the balance of the school year plus one additional school year (but in no event shall such leave exceed three semesters), provided the request complies with this policy. Nothing in this section shall prohibit a professional staff member from using paid sick days as provided in this policy. ¹¹

A teacher should request, if possible, a child-rearing leave by notifying the Superintendent in writing no later than 90 days before the requested leave's beginning date.¹² The request should include the proposed leave dates. The leave shall end before a new school year begins or before the first day of school after winter recess. ¹³

Subject to the insurance carrier's approval, the teacher may maintain insurance benefits at his or her own expense during a child-rearing leave.

A professional staff member desiring to return before the leave's expiration will be assigned to an available vacancy for which the teacher is qualified, subject to scheduling efficiency and instruction continuity.

Leaves for Service in the Military ¹⁴

Leaves for service in the U.S. Armed Services or any of its reserve components and the National Guard, as well as re-employment rights, will be granted in accordance with State and federal law. A professional staff member hired to replace one in military service does not acquire tenure.

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¹⁰ The School Code does not address child-rearing. FMLA grants eligible employees a combined total of 12 weeks each year, with exceptions for teachers at the end of the school year, for, among other things, a child's: (1) birth and first-year care, and (2) adoption or foster placement (see [sample policy 5:185, Family and Medical Leave](#)). Districts not covered by the FMLA must treat a request for child-care leave to care for an adopted infant on terms comparable to those given biological mothers. *McWright v. Alexander*, 982 F.2d 222 (7th Cir. 1992).

¹¹ Districts offering a child-rearing or maternity leave must be very careful not to violate anti-discrimination laws. Districts can prohibit pregnant teachers from combining paid disability leave with an unpaid maternity leave, provided that non-pregnant teachers are likewise prohibited from combining a paid disability leave with an unpaid general leave of absence. *Maganuco v. Leyden Comm. High Sch. Dist. 212*, 939 F.2d 440 (7th Cir. 1991); *U.S. v. Consol. High Sch. Dist. 230*, 983 F.2d 790 (7th Cir. 1993); *E.E.O.C. v. Elgin Teachers' Ass'n*, 780 F.Supp. 1195 (N.D.Ill. 1991). A sick leave bank exclusion of maternity benefits violates Title VII. *U.S. v. Consol. High Sch. Dist. 230*, *supra*.

¹² The length of the notice - here 90 days - is *not* covered by State or federal law. If an employee fails to provide this notice, the employee still has the right to request a family and medical leave which has a much shorter notice requirement (see [sample policy 5:185, Family and Medical Leave](#)), and could be followed by a child-rearing leave.

¹³ For a high school, omit "the first day of school after winter recess" and insert "at the semester break." Alternatively, the board may want to be more flexible by stating:

Every effort shall be made to have the leave minimally interrupt instructional continuity by ending . . .

¹⁴ Required by the School Code (105 ILCS 5/10-20.7b, 5/24-13, and 5/24-13.1); the Service Member Employment and Reemployment Rights Act (330 ILCS 61/, streamlining several job-related protection laws into one statute, mandating leave for *active service*, and requiring the public employer to make up the difference between military pay and regular compensation); and the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301 *et seq.*).

General Assembly Leave ¹⁵

Leaves for service in the General Assembly, as well as re-employment rights, will be granted in accordance with State and federal law. A professional staff member hired to replace one in the General Assembly does not acquire tenure.

Leave for Employment in Department of Defense ¹⁶

The Board may grant teachers a leave of absence to accept employment in a Dept. of Defense overseas school.

School Visitation Leave

An eligible professional staff member is entitled to eight hours during any school year, no more than four hours of which may be taken on any given day, to attend school conferences, behavioral meetings, or academic meetings related to the teacher's child, if the conference or meeting cannot be scheduled during non-work hours.¹⁷ Professional staff members must first use all accrued vacation leave, personal leave, compensatory leave, and any other leave that may be granted to the professional staff member, except sick, and disability leave.¹⁸

The Superintendent shall develop administrative procedures implementing this policy consistent with the School Visitation Rights Act.¹⁹

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¹⁵ Required by 105 ILCS 5/24-13.

¹⁶ State law provides guidelines for Dept. of Defense leaves but does not require boards to offer them. 105 ILCS 5/24-13.1.

¹⁷ 820 ILCS 147/15, amended by P.A. 101-486.

¹⁸ *Id.* The school visitation leave entitlement applies to both professional and educational support personnel. Rather than duplicate its requirements in separate policies, [sample](#) policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, grants the leave on the same terms applicable to professional staff.

¹⁹ 820 ILCS 147/. Parents of children with *serious health conditions* may also be eligible to use FMLA leave for individualized education program (IEP) meetings. See U.S. Dept. of Labor *Wage and Hour Division Opinion Letter*, FMLA 2019-2-A (8-8-19), available at: www.dol.gov/sites/dolgov/files/WHD/legacy/files/2019_08_08_2A_FMLA.pdf
www.dol.gov/agencies/whd/opinion-letters/search?FMLA.

Leaves for Victims of Domestic Violence, Sexual Violence, Gender Violence, or Other Crime of Violence ²⁰

An unpaid leave from work is available to any staff member who: (1) is a victim of domestic violence, sexual violence, gender violence, or any other crime of violence or (2) has a family or household member who is a victim of such violence whose interests are not adverse to the employee as it relates to the domestic violence, sexual violence, gender violence, or any other crime of violence. The unpaid leave allows the employee to seek medical help, legal assistance, counseling, safety planning, and other assistance without suffering adverse employment action.

The Victims' Economic Security and Safety Act governs the purpose, requirements, scheduling, and continuity of benefits, and all other terms of the leave. Accordingly, if the District employs at least 50 employees, an employee is entitled to a total of 12 work weeks of unpaid leave during any 12-month period.²¹ Neither the law nor this policy creates a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. §2601 *et seq.*).²²

Leaves to Serve as an Officer or Trustee of a Specific Organization

Upon request, the Board will grant: (1) an unpaid leave of absence to an elected officer of a State or national teacher organization that represents teachers in collective bargaining negotiations,²³ (2) twenty days of paid leave of absence per year to a trustee of the Teachers' Retirement System in accordance with 105 ILCS 5/24-6.3,²⁴ and (3) a paid leave of absence for the local association

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²⁰ Required by the Victims' Economic Security and Safety Act, (VESSA) (820 ILCS 180/, amended by P.A.s 101-221, ~~and~~ 102-487, and 102-890, and 56 Ill.Admin.Code §Part 280). *Gender violence* means: (1) one or more acts of violence or aggression that is a criminal offense under State law committed, at least in part, on the basis of a person's actual or perceived sex or gender, (2) a physical intrusion or invasion of a sexual nature under coercive conditions that is a criminal offense under State law, or (3) a threat to commit one of these acts. 820 ILCS 180/10(12.5), added by P.A. 101-221. *Other crime of violence* means conduct prohibited by 720 ILCS 5/9 (homicide), 720 ILCS 5/11 (sex offenses), 720 ILCS 5/12 (bodily harm), 720 ILCS 5/26.5 (harassing and obscene communications), 720 ILCS 5/29D (terrorism), and 720 ILCS 5/33A (armed violence), or similar provisions of the Criminal Code of 1961. 820 ILCS 180/10(2.5), added by P.A. 102-487. *Sexual violence* is not specifically defined in VESSA. While the law applies to all school districts (820 ILCS 180/10(10)), the number of employees determines the number of total workweeks of leave available during any 12-month period (820 ILCS 180/20(a)(2)). The term *employee* includes part-time workers. The Ill. Dept. of Labor must furnish to all employers a notice summarizing the law's requirements (*Your Rights Under Illinois Employment Laws* at: www2.illinois.gov/idol/Documents/flsposter.pdfwww2.illinois.gov/idol/Documents/flsposter.pdf#search=Your%20Rights%20Under%20Illinois%20Employment%20Laws). All districts must post this notice in a conspicuous place where notices to employees are customarily posted.

²¹ If the district employs fewer than 50 employees, it may substitute the following sentence: "Accordingly, if the District employs at least 15 but not more than 49 employees, an employee is entitled to a total of eight work weeks of unpaid leave during any 12-month period." 820 ILCS 180/20(a)(2).

If the district employs at least one but not more than 14 employees, it may substitute the following sentence: "Accordingly, if the District employs at least one but not more than 14 employees, an employee is entitled to a total four (4) work weeks of leave during any 12-month period." 820 ILCS 180/20(a)(2).

²² VESSA states that an employee does not have a right to take unpaid leave that exceeds the unpaid leave time allowed under the FMLA. 820 ILCS 180/20(a)(2). Section 25 creates an ambiguity by stating, "[t]he employer may not require the employee to substitute available paid or unpaid leave for [leave available to victims of domestic violence, sexual violence, or gender violence]," 820 ILCS 180/25, amended by P.A.s 101-221 and 102-487. Contact the board attorney for advice resolving this ambiguity.

²³ Required by 105 ILCS 5/24-13.

²⁴ Required by 105 ILCS 5/24-6.3(a). See [sample](#) policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for the leave for an elected trustee for the Ill. Municipal Retirement Fund.

president of a State teacher association that is an exclusive bargaining agent in the District, or his or her designee, to attend meetings, workshops, or seminars as described in 105 ILCS 5/24-6.2. ²⁵

COVID-19 Paid Administrative Leave ²⁶

During any time when the Governor has declared a disaster due to a public health emergency under 20 ILCS 3305/7, paid administrative leave is available to eligible employees if the District, State or any of its agencies, or the local health department has issued guidance, mandates, or rules related to COVID-19 that restrict an employee from being on District property for a reason outlined in State law.

For an employee to be eligible for COVID-19 paid administrative leave, the employee must be fully vaccinated against COVID-19 as defined in 105 ILCS 5/10-20.83 (final citation pending). ²⁷

The employee will receive as many days of administrative leave as required to abide by the public health guidance, mandates, and requirements issued by the Ill. Dept. of Public Health, unless a longer period has been negotiated with the exclusive bargaining representative.

As a condition of being granted COVID-19 paid administrative leave, an employee shall provide all documentation necessary to substantiate the employee's eligibility for the leave, as requested by the Superintendent or designee.²⁸ An employee who is on COVID-19 paid administrative leave will receive the employee's regular rate of pay; the leave will not diminish any other leave or benefits of the employee.²⁹ Employees may not accrue COVID-19 paid administrative leave. ³⁰

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²⁵ Required by 105 ILCS 5/24-6.2.

²⁶ Required by 105 ILCS 5/10-20.83 (final citation pending), added by P.A. 102-697. Whether some or all of the COVID-19 related reasons listed in 105 ILCS 5/10-20.83(b) and (c) (final citation pending) apply will depend upon current health guidance and/or rules. The law requires that this leave also be provided retroactively to an employee for a qualifying reason prior to 4-5-22 if the employee was fully vaccinated by 5-10-22. Id. at (b). The law prohibits districts from rescinding the paid leave if the definition of "fully vaccinated against COVID-19" is later updated by the CDC or IDPH to include recommended booster doses. Id.

Consult the board attorney for guidance about whether the board must accommodate an employee's religion or disability by exempting the employee from the COVID-19 vaccination prerequisite in 105 ILCS 5/10-20.83 (final citation pending), added by P.A. 102-697, and/or if the board and union may agree that this leave will extend to all unvaccinated employees. Title VII of the Civil Rights Act of 1964 requires employers to accommodate an employee's sincere religious objection to an employer vaccination requirement unless doing so would be an "undue hardship" on the employer. 42 U.S.C §2000e(j). Similarly, the Americans with Disabilities Act requires an employer to exempt an employee with a disability (including pregnancy-related disability) from a safety-related standard, such as a vaccination requirement, unless the employee poses a direct threat to the health or safety of the employee or others while on the job. 29 C.F.R. §1630.2(r). See also the U.S. Equal Employment Opportunity Commission guidance document, *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws*, at: www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws.

²⁷ 105 ILCS 5/10-20.83(g) (final citation pending), added by P.A. 102-697. "Fully vaccinated against COVID-19" means: (1) two weeks after receiving the second dose in a two-dose series of a COVID-19 authorized for emergency use, licensed, or otherwise approved by the U.S. Food and Drug Administration (FDA), or (2) two weeks after receiving a single dose of a COVID-19 vaccine authorized for emergency use, licensed, or otherwise approved by the FDA. If the CDC later revises the definition of "fully vaccinated against COVID-19" to include booster doses, and the IDPH adopts the CDC's revised definition, then employees will have five weeks after IDPH's action to receive a booster (if eligible) to remain eligible for COVID-19 paid administrative leave. Id. at (a).

If the board requires fully vaccinated employees to participate in a district COVID-19 testing program, add the phrase "and participate in the District's COVID-19 testing program" to the end of this sentence. Id.

²⁸ This sentence is optional. 105 ILCS 5/10-20.83(d) (final citation pending), added by P.A. 102-697. It is a best practice for boards to require appropriate documentation to verify employee eligibility for the leave benefit.

²⁹ Id. at (e).

LEGAL REF.: [105 ILCS 5/10-20.83 \(final citation pending\), 5/24-6, 5/24-6.1, 5/24-6.2, 5/24-6.3, 5/24-13, and 5/24-13.1.](#)
[10 ILCS 5/13-2.5.](#)
~~[105 ILCS 5/24-6, 5/24-6.1, 5/24-6.2, 5/24-6.3, 5/24-13, and 5/24-13.1.](#)~~
[10 ILCS 5/13-2.5, Election Code.](#)
330 ILCS 61/, Service Member Employment and Reemployment Rights Act.
820 ILCS 147/, School Visitation Rights Act.
820 ILCS 154/, Child Bereavement Leave Act.
820 ILCS 180/, Victims' Economic Security and Safety Act.

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical Leave), 5:330 (Sick Days, Vacation, Holidays, and Leaves)

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[30 Id. at \(f\).](#)

Educational Support Personnel

Employment At-Will, Compensation, and Assignment ¹

Employment At-Will ²

Unless otherwise specifically provided, District employment is at-will, meaning that employment may be terminated by the District or employee at any time for any reason, other than a reason prohibited by law, or no reason at all.³ Nothing in School Board policy is intended or should be construed as altering the employment at-will relationship.

Exceptions to employment at-will may include employees who are employed annually, have an employment contract, or are otherwise granted a legitimate interest in continued employment. The Superintendent is authorized to make exceptions to employing nonlicensed employees at-will but shall maintain a record of positions or employees who are not at-will.

Compensation

The Board will determine salary and wages for educational support personnel. Increments are dependent on evidence of continuing satisfactory performance. An employee covered by the overtime

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

A collective bargaining agreement may contain provisions that supersede this policy, in which case, the policy might state: "Please refer to the current bargaining agreement between the Educational Support Personnel and the School Board."

While the term *educational support personnel* is not defined in the School Code, at least one appellate court and one circuit court decision found in dicta that the term refers to nonlicensed employees, such as clerical workers, custodians, cafeteria workers, bus drivers, and teachers' aides. Laukhuf v. Congerville-Eureka-Goodfield School Dist., 2003 WL 23936148 (11th Cir. 2003)(non-precedential); Buckellew v. Georgetown-Ridge Farm Community Unit School Dist., 215 Ill.App.3d 506 (4th Dist. 1991).

² Illinois law does not specifically create a protected property interest in continued employment for nonlicensed employees, except in a reduction in force (RIF). However, whether an employee is actually employed at-will depends on the specific facts. This determination is important because the dismissal of an employee having a protected property right in continued employment requires a notice and hearing. Cleveland Bd of Educ. v. Loudermill, 470 U.S. 532 (1985). See also Griggsville-Perry Community Unit School Dist. v. Ill. Educ. Labor Relations Bd., 368 Ill.Dec. 494 (Ill. 2013)(upheld an arbitrator's finding that the requirement to provide a pre-discharge written notice was drawn from the essence of the agreement).

Even with this policy, it is safest to presume that all nonlicensed employees are at least employed annually. This is a good assumption because districts routinely assure next-year employment so that the employee will not qualify for summer unemployment. In addition, annual employment may be created through a collective bargaining agreement, past practice, an employees' handbook, personnel policy manual, or an oral promise. Arneson v. Bd of Trustees, McKendree College, 210 Ill.App.3d 844 (5th Dist. 1991). Moreover, there are several exceptions to at-will including prohibitions against discrimination and retaliatory discharge (Michael v. Precision Alliance Group, 351 Ill.Dec. 890 (5th Dist. 2011)(common law recognizes a cause of action for retaliatory discharge when the employee engaged in protected activity). Consult the board attorney for help determining whether an employee is employed *at-will*).

A district, by policy or handbook, may not take away a previously given property interest in continued employment to current employees; only those employees hired afterwards could be affected. Duldulao v. St. Mary of Nazareth Hospital, 115 Ill.2d 482 (1987)136 Ill.App.3d 763 (1st Dist. 1985); Kaiser v. Dixon, 127 Ill.App.3d 251 (2nd Dist. 1984).

For a discussion of prohibited dismissal reasons, see 5:10, *Equal Employment Opportunity and Minority Recruitment*. Volunteer firefighters may not be fired for responding to an emergency. 50 ILCS 748/.

³ 105 ILCS 5/10-23.5, amended by P.A. 102-854. For more information on RIF, see sample policy 5:290, *Employment Termination and Suspensions*.

provisions in State or federal law shall not work overtime without the prior authorization from the employee's immediate supervisor.⁴ Educational support personnel are paid twice a month.⁵

Assignment

The Superintendent is authorized to make assignments and transfers of educational support personnel.

LEGAL REF.: 105 ILCS 5/10-22.34 and 5/10-23.5.

CROSS REF.: 5:10 (Equal Employment Opportunity and Minority Recruitment) 5:35 (Compliance with the Fair Labor Standards Act), 5:290 (Employment Termination and Suspensions), 5:310 (Compensatory Time-Off)

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⁴ For information regarding overtime, see [sample policy 5:35, Compliance with the Fair Labor Standards Act](#).

⁵ 820 ILCS 115/3. However, the wages of employees who are *exempt* as defined in the Fair Labor Standards Act (FLSA) (29 U.S.C. §201 *et seq.*) may be paid once a month. For a discussion of the FLSA, see [sample policy 5:35, Compliance with the Fair Labor Standards Act](#).

Educational Support Personnel

Duties and Qualifications 1

All support staff: (1) must meet qualifications specified in job descriptions, (2) must be able to perform the essential tasks listed and/or assigned, and (3) are subject to School Board policies as they may be changed from time to time at the Board’s sole discretion.

Paraprofessionals 2

Paraprofessionals provide supervised instructional support. Service as a paraprofessional requires an educator license with stipulations endorsed for a paraprofessional educator unless a specific exemption is authorized by the Illinois State Board of Education (ISBE).

Individuals with only non-instructional duties (e.g., providing technical support for computers, providing personal care services, or performing clerical duties) are not paraprofessionals, and the requirements in this section do not apply. In addition, individuals completing their clinical experiences and/or student teaching do not need to comply with this section, provided their service otherwise complies with ISBE rules. 3

Nonlicensed/certificated and Unlicensed Personnel Working with Students and Performing Non-Instructional Duties

Nonlicensed/certificated and unlicensed personnel performing non-instructional duties may be used:

1. For supervising study halls, long-distance teaching reception areas used incident to instructional programs transmitted by electronic media (e.g., computers, video, and audio), detention and discipline areas, and school-sponsored extracurricular activities; 4

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

² Educator licensure replaced the previous system of certification on 7-1-13. All Illinois teaching, administrative, and school service personnel certificates were converted to a corresponding license. Except as provided in ISBE rules §§1.630(b)(2), [25.433](#), and 25.510(a), all new applicants for a paraprofessional credential must hold an educator license with stipulations endorsed for a paraprofessional educator. 105 ILCS 5/21B-20(2)(J), amended by P.A.s 101-220 and 101-594; 23 Ill.Admin.Code §§1.630 and 25.510. See [the Ill. State Board of Education’s \(ISBE\)’s](#) explanation at: www.isbe.net/Pages/Educator-Licensure-Requirements.aspx.

A district may continue to use the term *teacher aide* to describe licensed personnel performing instructional support activities. In that situation, use the following alternative for the subhead and first paragraph:

Paraprofessionals and Licensed Teacher Aides

Paraprofessionals and licensed teacher aides provide supervised instructional support. Personnel performing instructional support activities must hold a current educator license with stipulations endorsed for a paraprofessional educator unless a specific exemption is authorized by ~~the Illinois State Board of Education (ISBE)~~.

If a district uses teacher aides to perform non-instructional support activities, *unlicensed teacher aides* may be inserted in the subhead for next section as follows: “Nonlicensed/certificated and Unlicensed Personnel (Including Nonlicensed/Unlicensed Teacher Aides) Working with Students and Performing Non-Instructional Duties.”

Paraprofessionals are not required to maintain discipline under 105 ILCS 5/24-24. 23 Ill.Admin.Code §1.280.

³ 105 ILCS 5/10-22.34, [amended by P.A. 102-894](#); 23 Ill.Admin.Code §§1.630(c)(3) (other ~~un~~nonlicensed personnel) and 25.620 (student teaching). This paragraph is optional and may be deleted if the board desires a streamlined policy.

⁴ 105 ILCS 5/10-22.34(a)(2).

2. As supervisors, chaperones, or sponsors for non-academic school activities or for school activities connected to the academic program during any time in which the Governor has declared a disaster due to a public health emergency, in accordance with ISBE rule; or 5
3. For non-teaching duties not requiring instructional judgment or student evaluation. 6

Nothing in this policy prevents a non~~licensed~~~~certificated~~ person from serving as a guest lecturer or resource person under a certificated teacher's direction and with the administration's approval. 7

Coaches and Athletic Trainers

Athletic coaches and trainers shall have the qualifications required by any association in which the School District maintains a membership.⁸ Regardless of whether the athletic activity is governed by an association, the Superintendent or designee shall ensure that each athletic coach: (1) is knowledgeable regarding coaching principles, (2) has first aid training, and (3) is a trained Automated External Defibrillator user according to rules adopted by the Illinois Department of Public Health.⁹ Anyone performing athletic training services shall be licensed under the Illinois Athletic Trainers Practice Act, be an athletic trainer aide performing care activities under the on-site supervision of a licensed athletic trainer, or otherwise be qualified to perform athletic trainer activities under State law. ¹⁰

Bus Drivers

All school bus drivers must have a valid school bus driver permit.¹¹ The Superintendent or designee shall inform the Illinois Secretary of State, within 30 days of being informed by a school bus driver,

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⁵ 105 ILCS 5/10-22.34(a), amended by P.A. 102-894; 23 Ill.Admin.Code §1.630(c)(4).

⁶ 105 ILCS 5/10-22.34(a)(1); 23 Ill.Admin.Code §1.630(a).

⁷ 105 ILCS 5/10-22.34b, amended by P.A. 102-894, last paragraph. Non~~licensed~~~~certificated~~ personnel may be used to provide specialized instruction in a field that an individual is particularly qualified by reason of specialized knowledge or skill. 23 Ill.Admin.Code §1.630(c)(3)(C). Districts that frequently use non~~licensed~~~~certificated~~ individuals to provide such instruction may consider adding the following optional sentence, substituting Intermediate Service Center for Regional Superintendent, if applicable:

When appropriate, the Superintendent may seek approval from the responsible Regional Superintendent for a non~~licensed~~~~certificated~~ individual to provide specialized instruction not otherwise readily available in the school environment, in the field that the individual is particularly qualified by reason of specialized knowledge or skill.

⁸ A district should consult the handbooks and by-laws of the appropriate associations, e.g., the Ill. High School Association, the Southern Ill. Junior High School Athletic Association, and the Ill. Elementary School Association.

An optional sentence follows:

The coach for an extracurricular athletic activity sponsored or sanctioned by the Illinois High School Association (IHSA) at or above the ninth grade level must have completed the IHSA's educational program and competency testing on preventing abuse of performance-enhancing substances, provided the program is available.

⁹ Optional and may be amended. The first requirement identifies a basic competency, and the second two requirements are intended to ensure coaches are trained emergency responders. For AED training program requirements, see Automated External Defibrillator Act (410 ILCS 4/15) and Automated External Defibrillator Code (77 Ill.Admin.Code §§525.300 and 525.400).

¹⁰ 225 ILCS 5/3 and 5/4.

¹¹ The regional superintendent is authorized to conduct school bus driver instruction courses and investigate whether persons hired to operate school buses have valid school bus driver permits. 105 ILCS 5/3-14.23, amended by P.A. 100-863.

School bus driver permits are issued by the Ill. Secretary of State (SOS). 625 ILCS 5/6-106.1, amended by P.A. ~~s-100-513 and~~ 101-458. Districts must conduct a pre-employment interview with bus driver candidates, distribute bus driver applications and medical forms, and submit the applicant's fingerprint cards to the Ill. ~~Dept. of~~ State Police (ISP) for criminal background investigations. Districts must also certify in writing to the SOS that all pre-employment conditions were completed, including an Illinois-specific criminal background investigation through the ISP and the submission of necessary fingerprints to the Federal Bureau of Investigation for criminal history information. Id. The applicant presents this certification to the SOS when submitting the school bus driver permit application. Id.

that the bus driver permit holder has been called to active duty.¹² New bus drivers and bus drivers who are returning from a lapse in their employment are subject to the requirements contained in Board policy 5:30, *Hiring Process and Criteria* and Board policy 5:285, *Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers*.

LEGAL REF.: 34 C.F.R. §200.58.
105 ILCS 5/10-22.34, 5/10-22.34a, and 5/10-22.34b.
625 ILCS 5/6-104 and 5/6-106.1, [Ill. Vehicle Code](#).
23 Ill.Admin.Code §§1.280, 1.630, and 25.510.

CROSS REF.: 4:110 (Transportation), 4:170 (Safety), 5:30 (Hiring Process and Criteria), 5:35 (Compliance with the Fair Labor Standards Act), 5:285 (Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers), 6:250 (Community Resource Persons and Volunteers)

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A school bus driver operating a school bus at the time of an accident is deemed by the implied consent law to agree to submit to tests at the direction of a law enforcement officer of the driver's breath, blood, or urine to determine the presence of alcohol, or other drugs, in the person's system. 625 ILCS 5/6-516.

Anyone driving a bus chartered to transport students to or from interscholastic athletic or interscholastic or school-sponsored activities must have a valid school bus driver permit; this does not apply to any driver employed by a public transportation provider when the bus is on a regularly scheduled route for transporting other fare-paying passengers. 625 ILCS 5/6-104(d-5).

¹² This sentence is optional, but the notification is required by 625 ILCS 5/6-106.1(h). *Active duty* is defined in the statute as active duty pursuant to an executive order of the U.S. President, an act of the Congress, or an order of the Governor. 625 ILCS 5/6-106.1(j). Upon notification, the SOS will characterize the permit as inactive until a permit holder renews the permit pursuant to 625 ILCS 5/6-106.1(h).

Educational Support Personnel

Employment Termination and Suspensions ¹

Resignation and Retirement

An employee is requested to provide two weeks' notice of a resignation.² A resignation notice cannot be revoked once given. An employee planning to retire should notify his or her supervisor at least two months before the retirement date.

Non-RIF Dismissal ³

The District may terminate an at-will employee at any time for any or no reason, but not for a reason prohibited by State or federal law.

Employees who are employed annually or have a contract, or who otherwise have a legitimate expectation of continued employment, may be dismissed: (1) at the end of the school year or at the end of their respective contract after being provided appropriate notice and after compliance with any

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¹ State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. School officials should consult with their attorneys before adopting this policy or taking any action under it.

If a local collective bargaining agreement contains provisions that exceed these requirements, it will supersede this policy for those covered employees. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement." For employees not covered, the policy should reflect the board's current practice.

Administrative procedures implementing this policy should include guidelines for exit interviews. These guidelines should include a list of items to discuss with the employee, e.g., the reasons for the termination; how the district could improve its policies, procedures, and working conditions; how to reduce employee turnover; and information about the employee's benefits, including continued health insurance coverage.

² Optional provision:

In most cases, resigning employees are permitted to work until their effective resignation date.

³ If employed at-will, the employee may be dismissed at any time for a non-discriminatory reason unless the dismissal is for a reduction in force. See [sample policy 5:270, Employment At-Will, Compensation, and Assignment](#). **Important:** whether a specific employee is actually employed at-will depends on the specific facts. Griggsville-Perry Community Unit Sch. Dist. v. Ill. Educ. Labor Relations Bd., 368 Ill. Dec. 494 (Ill. 2013) (upheld an arbitrator's finding that the requirement to provide a pre-discharge written notice was drawn from the essence of the agreement); Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (1985). See also Baird v. Warren Comm. Unit Sch. Dist., 389 F.3d 685 (7th Cir. 2004) (because board members denied a dismissed superintendent procedural due process rights, they were denied qualified immunity).

It is safest to presume that all non-licensed employees are employed for the school year because districts routinely assure next-year employment so that the employee will not qualify for summer unemployment. In addition, annual employment may be created through a collective bargaining agreement, past practice, an employees' handbook, personnel policy manual, an oral promise, or any type of specific annual allocation per year, e.g., vacation or sick day allotments. Thus, the sample policy addresses those employees "with an annual or longer contract or who otherwise have a legitimate expectation of continued employment." A dismissal at the end of the school year or end of a contract generally requires only minimal due process. A mid-year or mid-contract dismissal will require significantly greater due process.

Even if an employee is at-will, a district should consider giving a dismissal reason. The failure to give a reason may provoke an employee into challenging the dismissal, e.g., by alleging illegal discrimination or retaliation for exercising a protected right or whistleblowing.

Consult the board attorney to determine: (1) which employees are at-will, have annual employment, or have a different expectation for their length of employment, and (2) the level of due process to provide specific employees in the event of a dismissal.

applicable contractual provisions, or (2) mid-year or mid-contract provided appropriate due process procedures are provided.

The Superintendent is responsible for making dismissal recommendations to the School Board consistent with the Board's goal of having a highly qualified, high performing staff. This includes recommending a non-licensed employee for immediate dismissal for willful or negligent failure to report an instance of suspected child abuse or neglect as required by 325 ILCS 5/.⁴

Reduction in Force and Recall⁵

The Board may, as necessary or prudent, decide to decrease the number of educational support personnel or to discontinue some particular type of educational support service and, as a result of that action, dismiss or reduce the hours of one or more educational support employees. When making decisions concerning reduction in force and recall, the Board will follow Sections 10-22.34c (outsourcing non-instructional services) and 10-23.5 (procedures) of the School Code, to the extent they are applicable and not superseded by legislation or an applicable collective bargaining agreement.

Final Paycheck

A terminating employee's final paycheck will be adjusted for any unused, earned vacation credit.⁶ Employees are paid for all earned vacation. Terminating employees will receive their final pay on the next regular payday following the date of termination, except that an employee dismissed due to a reduction in force shall receive his or her final paycheck on or before the next regular pay date following the last day of employment.⁷

Suspension

Except as provided below, the Superintendent is authorized to suspend an employee without pay as a disciplinary measure, during an investigation into allegations of misconduct or pending a dismissal hearing whenever, in the Superintendent's judgment, the employee's presence is detrimental to the District. A disciplinary suspension shall be with pay: (1) when the employee is exempt from the

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⁴ 105 ILCS 5/10-23.12(c), added by P.A. 101-531; 105 ILCS 5/21B-75(b), amended by P.A.s 101-531 and 102-702, eff. 7-1-23. For further discussion see f/n 3 in policy 2:20, *Powers and Duties of the School Board; Indemnification*.

⁵ 105 ILCS 5/10-23.5, amended by P.A.s 101-46 and 102-854, grants educational support personnel significant protection during a RIF. Among those protections, support personnel maintain any rights accrued during their prior service if they are laid off and recalled to a vacant position within the statutory recall period. Id.

Unless otherwise defined by a collective bargaining agreement, the board can define the position categories for a seniority list. Cook v. Eldorado Community Unit Sch. Dist., 354 Ill.App. 3d 256 (5th Dist. 2004). While the statute gives boards the discretion to define *categories of positions*, boards may not define *categories* differently for lay-off/recall purposes than for other purposes. 105 ILCS 5/10-22.34c governs layoffs as a result of a third party non-instructional services contract. See Community Unit Sch. Dist. No. 5 v. Ill. Educ. Labor Relations Bd., 382 Ill.Dec. 120 (4th Dist. 2014). (no unfair labor practice occurred when a school employer outsourced its transportation services and dismissed bus drivers as a result of bona fide and legitimate reasons, not anti-union animus, and the district had bargained in good faith with the union.

⁶ A district may also adjust an employee's final paycheck for advanced vacation leave, *provided* that the employee agreed to deduct a specified amount of pay equaling the advanced vacation. 56 Ill.Admin.Code §300.760. If employees are required to execute such an agreement before taking unearned vacation leave, add the following phrase to this sentence: "or, if the employee agreed in writing, vacation time taken that was not earned."

⁷ These final paycheck requirements are in 105 ILCS 5/10-23.5(a).

overtime provisions,⁸ or (2) until an employee with an employment contract for a definite term is provided a notice and hearing according to the suspension policy for professional employees.⁹ Upon receipt of a recommendation from the Ill. Dept. Children and Family Services (DCFS) that the District remove an employee from his or her position when he or she is the subject of a pending DCFS investigation that relates to his or her employment with the District, the Board or Superintendent or designee, in consultation with the Board Attorney, will determine whether to:¹⁰

1. Let the employee remain in his or her position pending the outcome of the investigation; or
2. Remove the employee as recommended, proceeding with:
 - a. A suspension with pay; or
 - b. A suspension without pay.

Any criminal conviction resulting from the investigation or allegations shall require the employee to repay to the District all compensation and the value of all benefits received by the employee during the suspension. The Superintendent will notify the employee of this requirement when the employee is suspended.¹¹

LEGAL REF.: [105 ILCS 5/10-22.34c and 5/10-23.5.](#)
[5 ILCS 430 et seq., State Officials and Employees Ethics Act.](#)
~~[105 ILCS 5/10-22.34c and 5/10-23.5.](#)~~
[325 ILCS 5/7.4\(c-10\), Abused and Neglected Child Reporting Act.](#)
[820 ILCS 105/4a, Minimum Wage Law.](#)

CROSS REF.: 5:90 (Abused and Neglected Child Reporting), [5:120 \(Employee Ethics; Code of Professional Conduct; and Conflict of Interest\)](#), 5:240 (Suspension), 5:270 (Employment At-Will, Compensation, and Assignment)

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⁸ Employees who are exempt from overtime requirements become eligible for overtime if they are subject to disciplinary suspensions without pay. Auer v. Robbins, 519 U.S. 452 (1997). Although the U.S. Dept. of Labor modified this rule in 2004, the Illinois legislature rejected these rule changes. 820 ILCS 105/4a. Illinois employers must use the federal rules as they existed on March 30, 2003.

⁹ A suspension of an employee having a protected property right in continued employment requires a notice and hearing. See ¶n 3 for additional discussion.

¹⁰ This sentence is optional. 325 ILCS 5/7.4(c-5), ~~amended by P.A. 100-176~~. Consult the board attorney about suspending an employee without pay pursuant to a *DCFS 325 ILCS 5/7.4(c-5)-recommendation*. This sample language balances the interests of student safety and employee due process when the district receives a recommendation to a remove an employee who is the subject of a DCFS investigation from employment.

Note: Liability may exist when a district receives a *325 ILCS 5/7.4(c-5)-recommendation* and does not remove the employee as a result. Consider In re Estate of Stewart v. Oswego Comm. Unit. Sch. Dist. No. 308, 406 Ill.Dec. 345 (Ill. App. Ct. 2nd Dist. 2016) (finding district's response to a student health emergency was willful and wanton as it had prior information regarding appropriate response protocols and denying tort immunity to district); In re Estate of Stewart, 412 Ill.Dec. 914 (Ill. 2017) (school district's appeal denied).

¹¹ The repayment requirements in the first sentence of this paragraph are in 5 ILCS 430/5-60(b). The second sentence is optional.

Educational Support Personnel

Evaluation ¹

The Superintendent is responsible for designing and implementing a program for evaluating the job performance of each educational support staff member according to standards contained in School Board policies as well as in compliance with State law and any applicable [employee handbook and/or](#) collective bargaining agreement. The standards for the evaluation program shall include, but not be limited to:

1. Each employee shall be evaluated annually, preferably before the annual salary review.
2. The direct supervisor shall provide input.
3. The employee's work quality, promptness, attendance, reliability, conduct, judgment, and cooperation shall be considered.
4. The employee shall receive a copy of the annual evaluation.
5. All evaluations shall comply with State and federal law and any applicable [employee handbook and/or](#) collective bargaining agreement.

CROSS REF.: 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:150 (Personnel Records)

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

¹ This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. If the policy's subject matter is superseded by a bargaining agreement, for those covered employees the board policy ~~may-should~~ state, "Please refer to the applicable collective bargaining agreement," and the other references in the policy to "collective bargaining agreement" should be removed. For employees not covered, the policy should reflect the board's current practice.

State law does not address evaluation of educational support personnel, except to require a district to report on the annual ISBE salary and benefit survey whether the district's salary program, policies, or provisions are based upon merit or performance evaluation of individual educational support personnel for the school year covered by the survey. 105 ILCS 5/2-3.103. The survey is provided by ISBE to each school district.

The numbered items are at the local board's discretion. One important consideration for evaluations involves accurate job descriptions. They assist with meaningful evaluations, wage and salary surveys, and help provide an equitable wage and salary structure.

Educational Support Personnel

Sick Days, Vacation, Holidays, and Leaves ¹

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

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

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. Alternatively, if the policy’s subject matter is superseded by a bargaining agreement, the board policy may state, “Please refer to the applicable collective bargaining agreement.”

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA) (29 U.S.C. §2612), amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (Pub. L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (1) the birth and first-year care of a child; (2) the adoption or foster placement of a child; (3) the serious health condition of an employee’s spouse, parent, or child; (4) the employee’s own serious health condition; (5) the existence of any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is on (or has been notified of an impending call to) *covered active duty* in the Armed Forces; and (6) to care for the employee’s spouse, child, parent, or next of kin who is a covered service member with a serious injury or illness. The definition of *covered servicemember* includes a veteran “who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness” if the veteran was a member of the Armed Forces “at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.” 29 U.S.C. §2611(15). Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee’s FMLA entitlement. 29 C.F.R. §825.207. See [sample](#) policy 5:185, *Family and Medical Leave*.

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

Sick and Bereavement Leave ²

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

Sick leave is defined in State law as personal illness, [mental or behavioral complications](#), quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, placement for adoption, or the acceptance of a child in need of foster care. The Superintendent ~~and~~/or designee shall monitor the use of sick leave.

As a condition for paying sick leave after three days absence for personal illness or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may require that the staff

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² This section contains the minimum benefits provided by 105 ILCS 5/24-6, [amended by P.A. 102-275, 102-697, and 102-866](#). Each specified number of days in this section is the statutory minimum. The School Code does not address whether an employee's 10 paid sick leave days are available upon employment, accrued over months, or after working for a certain period of time, e.g., one year. Also be aware that the Employee Sick Leave Act (ESLA) (820 ILCS 191/, [amended by P.A. 102-4](#)) allows employees to use employer-provided sick leave ~~to due to care for an illness, or injury, or to attend a medical appointment, or personal care with of a covered family member. The law defines family members as a child, stepchild, spouse, domestic partner, sibling, parent, mother or father in law, grandchild, grandparent, or stepparent. Id. at 191/10(b).~~ See [sample policy 5:250, Leaves of Absence, at f/n 2 for more information about the scope and application of the ESLA.](#) Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury.

Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements. Strict accounting of unused sick days is important to avoid:

1. Employees accumulating sick time on a full-time basis when they are truly working part-time hours;
2. Inconsistent treatment; and
3. Inaccurate reporting to IMRF (credit is given for full day unused sick days upon retirement). 40 ILCS 5/7-139(a)(8).

[105 ILCS 5/24-6, amended by P.A.s 102-275, 102-697, and 102-866, requires districts to return any sick leave days used by educational support personnel for a qualifying COVID-19 related reason during the 2021-2022 school year, provided the employee was "fully vaccinated against COVID-19" by 5-10-22. See sample policy 5:250, Leaves of Absence, at f/n 2, for more information.](#)

³ As this policy is consistent with the minimum requirements of State law, this provision on the maximum number of sick days that may be accumulated is based on the minimum number required as stated in 105 ILCS 5/24-6, amended by P.A.s [102-275, 102-697, and 102-866](#). The number may be increased to meet or exceed the number IMRF will recognize for retirement credit purposes. The following alternative does this: "Unused sick leave shall accumulate to the maximum number of days that IMRF will recognize for retirement credit purposes."

The following optional provisions apply to boards that want to address the IMRF's requirement that public bodies must have a written plan allowing eligible employees to convert their eligible accumulated sick leave to service credit upon their retirement. See 40 ILCS 5/7-139(a)(8). See also IMRF General Memorandum #555 at:

www.imrf.org/en/publications-and-archive/general-memos/2007-general-memos/general-memo-555.

Option 1: No collective bargaining agreement applies and the board wants to publicize its written plan. Insert the following sentence: This policy is the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon a District employee's retirement under the Ill. Municipal Retirement Fund.

Option 2: A local collective bargaining agreement contains the written plan and the board wants to publicize it. Insert the following sentence: Please refer to the applicable collective bargaining agreement(s) for the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon an employee's retirement under the Ill. Municipal Retirement Fund.

Option 3: A district maintains two separate sick leave plans, one for employees under a collective bargaining agreement, and one for non-unionized employees. Insert the text for both Option 1 and Option 2.

Note: If Options 1, 2, or 3 are chosen, add 40 ILCS 5/7-139 to the Legal References. If the board does not have a written sick leave plan for purposes of IMRF sick leave to service credit conversion or does not wish to include it in the policy, do not include any of the options above or add the citation to the Legal References.

member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, (2) [a mental health professional licensed in Illinois providing ongoing care or treatment to the staff member](#) (32) a chiropractic physician licensed under the Medical Practice Act, (43) a licensed advanced practice registered nurse, (54) a licensed physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (65) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than three days for personal illness, the District shall pay the expenses incurred by the employee.

Employees are entitled to use up to 30 days of paid sick leave because of the birth of a child that is not dependent on the need to recover from childbirth. Such days may be used at any time within the 12-month period following the birth of the child. Intervening periods of nonworking days or school not being in session, such as breaks and holidays, do not count towards the 30 working school days. As a condition of paying sick leave beyond the 30 working school days, the Board or the Superintendent may require medical certification. ⁴

For purposes of adoption, placement for adoption, or acceptance of a child in need of foster care, paid sick leave may be used for reasons related to the formal adoption or the formal foster care process prior to taking custody of the child or accepting the child in need of foster care, and for taking custody of the child or accepting the child in need to foster care. Such leave is limited to 30 days, unless a longer leave is provided in an applicable collective bargaining agreement, and need not be used consecutively once the formal adoption or foster care process is underway. The Board or Superintendent may require that the employee provide evidence that the formal adoption or foster care process is underway. ⁵

Vacation ⁶

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

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

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

Vacation days earned in one fiscal year must be used by the end of the following fiscal year; they do not accumulate. Employees resigning or whose employment is terminated are entitled to the monetary equivalent of all earned vacation. ⁷

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⁴ 105 ILCS 5/24-6, amended by P.A.s 102-275, 102-697, and 102-866.

⁵ 105 ILCS 5/24-6, amended by P.A.s ~~400-513~~ and 102-275, 102-697, and 102-866.

⁶ State law does not require districts to give employees vacations.

⁷ Required by 820 ILCS 115/5 and 56 Ill.Admin.Code §300.520 (Earned Vacations).

Holidays⁸

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

New Year's Day	Labor Day
Martin Luther King Jr.'s Birthday	Columbus Day
Abraham Lincoln's Birthday	Veterans Day
Casimir Pulaski's Birthday	2022 Election Day
Memorial Day	Thanksgiving Day
Juneteenth National Freedom Day	Christmas Day
Independence Day	

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

Personal Leave⁹

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

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

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⁸ Holidays are listed in 105 ILCS 5/24-2(a), (e), amended by P.A.s 101-642, 102-14, 102-15, and 102-334; 10 ILCS 5/2A-1.1c, added by P.A. 102-15 and scheduled to be repealed on 1-1-23. For information on the waiver process allowed by 105 ILCS 5/24-2(b), see 2:20-E, *Waiver and Modification Request Resource Guide*. Holidays not specified in the School or Election Codes may be added to the policy; however, boards adding additional holidays should monitor and review to ensure the list remains current.

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

For more information about 2022 Election Day, see the discussion in f/n 4 in 5:200, *Terms and Conditions of Employment and Dismissal*. 2020 Election Day remains a holiday listed in 105 ILCS 5/24-2(e), amended by P.A. 102-15, but no longer appears in this policy.

⁹ State law does not address personal leave. It is not uncommon for boards to grant educational support personnel the same number of personal leave days as are granted to professional staff.

Leave to Serve as a Trustee of the Ill. Municipal Retirement Fund

Upon request, the Board will grant 20 days of paid leave of absence per year to a trustee of the Ill. Municipal Retirement Fund in accordance with ~~105 ILCS 5/24-6.3~~[State law](#).¹⁰

Other Leaves

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

1. Leave for Service in the Military.¹¹
2. Leave for Service in the General Assembly.¹²
3. School Visitation Leave.¹³
4. Leaves for Victims of Domestic Violence, Sexual Violence, Gender Violence, or Other Crime of Violence.¹⁴
5. ~~Family~~[Child](#) Bereavement Leave.¹⁵
6. Leave to serve as an election judge.¹⁶
- ~~6.7.~~[7. COVID-19 Paid Administrative Leave](#).¹⁷

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¹⁰ Required by 105 ILCS 5/24-6.3(b) and [40 ILCS 5/7-174.5, added by P.A. 102-943](#). A similar leave exists for an elected trustee for the Ill. Teachers' Retirement System. See [sample policy 5:250, Leaves of Absence](#).

¹¹ Military leave is governed by the School Code (105 ILCS 5/10-20.7b, 5/24-13, and 13.1); the Service Member Employment and Reemployment Rights Act (330 ILCS 61/~~added by P.A. 100-1101~~, streamlining several job-related protection laws into one statute, mandating leave for *active service* and requiring the public employer to make up the difference between military pay and regular compensation); and the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301 *et seq.*).

¹² Granting General Assembly leave to ESPs is optional.

¹³ 820 ILCS 147/, amended by P.A. 101-486. See [sample policy 5:250, Leaves of Absence](#), and 5:250-AP, *School Visitation Leave*.

¹⁴ Required by Victims' Economic Security and Safety Act (820 ILCS 180/, amended by P.A.s 101-221, ~~and~~ 102-487, [and 102-890](#)) and 56 Ill.Admin.Code Part 280. Important information about this leave is discussed in f/ns 21, 22 and 23 of [sample policy 5:250, Leaves of Absence](#).

¹⁵ 820 ILCS 154/, [amended by P.A. 102-1050, eff. 1-1-23](#); 56 Ill.Admin.Code Part 252. Important information about this leave is discussed in f/n ~~56~~ of [sample policy 5:250, Leaves of Absence](#).

¹⁶ 10 ILCS 5/13-2.5.

¹⁷ [105 ILCS 5/10-20.83 \(final citation pending\), added by P.A. 102-697](#). See [sample policy 5:250, Leaves of Absence, and its f/ns 26-28 for important information about this leave](#).

LEGAL REF.: 105 ILCS 5/10-20.7b, [5/10-20.83 \(final citation pending\)](#), 5/24-2, ~~and~~ 5/24-6, [and 5/24-6.3](#).
[10 ILCS 5/13-2.5, Election Code.](#)
330 ILCS 61/, Service Member Employment and Reemployment Rights Act.
820 ILCS 147, School Visitation Rights Act.
820 ILCS 154/, Child Bereavement Leave Act.
820 ILCS 180/, Victims' Economic Security and Safety Act.
School Dist. 151 v. ISBE, 154 Ill.App.3d 375 (1st Dist. 1987); Elder v. Sch. Dist. No.127 1/2, 60 Ill.App.2d 56 (1st Dist. 1965).

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

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Instruction

School Accountability ¹

According to the Illinois General Assembly, the primary purpose of schooling is the transmission of knowledge and culture through which students learn in areas necessary to their continuing development and entry into the world of work.² To fulfill that purpose, the Ill. State Board of Education (ISBE) prepared *State Goals for Learning with accompanying Illinois and Learning Standards*.³

The School Board gives priority in the allocation of resources, including funds, time, personnel, and facilities, to fulfilling this purpose.

Quality Assurance

The Board continuously monitors student achievement and the quality of the District's work. The Superintendent shall supervise the following quality assurance components, in accordance with State law and ISBE rules, and continuously keep the Board informed:

1. Prepare each school's annual recognition application and quality assurance appraisal, whether internal or external, to assess each school's continuous school improvement.⁴
2. Continuously assess the District's and each school's overall performance in terms of both academic success and equity. This includes, without limitation, a thorough analysis of ISBE's balanced accountability measure and each school's *Multiple Measure Index* and corresponding *Annual Measurable Objective* provided by ISBE.⁵

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

¹ State or federal law controls this policy's content.

² 105 ILCS 5/27-1.

³ 23 Ill.Admin.Code §1, Appendix D.

⁴ 105 ILCS 5/2-3.25 - 2-3.25b; 23 Ill.Admin.Code §§1.10(a) and 1.20.

⁵ 105 ILCS 5/2-3.25a; 5/2-3.64a-5, amended by P.A. 101-643. First, the General Assembly significantly revised the system of standards for school districts and schools. Next, it delayed certain implementation dates by one school year. Then, it further revised the system of standards for school districts and schools. Annual state assessments required by 105 ILCS 5/2-3.64a-5(c), amended by P.A. 101-643, are not required if ISBE receives a waiver from the administration of assessments from the U.S. Dept. of Education. 105 ILCS 5/2-3.64a-5(c), as amended by P.A. 101-643. ISBE must establish recognition standards for student performance and school improvement for all districts and their individual schools, and outline accountability measures in its State plan that it submits to the U.S. Dept. of Education under the Every Student Succeeds Act (ESSA) (Pub. L. 114-95). If ESSA ceases to require a state plan, then ISBE must develop a written plan in consultation with the Ill. Balanced Accountability Measure (IBAM) Committee. 105 ILCS 5/2-3.25a.

3. If applicable, develop District and School Improvement Plans, present them for Board approval, and supervise their implementation. ⁶
4. Prepare a school report card, present it at a regular Board meeting, and disseminate it as provided in State law. ⁷
5. In accordance with 105 ILCS 5/2-3.153, annually administer a climate survey on the instructional environment within the school to, at minimum, students in grades 4 through 12 and teachers. ⁸

LEGAL REF.: 105 ILCS 5/2-3.25, 5/2-3.25a, 5/2-3.25b, 5/2-3.25c, 5/2-3.25d-5, 5/2-3.25e-5, 5/2-3.25f, 5/2-3.25f-5, 5/2-3.63, 5/2-3.64a-5, 5/2-3.153, 5/10-17a, 5/10-21.3a, and 5/27-1.
23 Ill.Admin.Code Part 1, Subpart A: Recognition Requirements.

CROSS REF.: 6:170 (Title I Programs), 6:340 (Student Testing and Assessment Program), 7:10 (Equal Educational Opportunities)

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⁶ The requirements around district and school improvement plans are unknown until ISBE revises its rules at 23 Ill.Admin.Code Part 1, Subpart A: Recognition Requirements following P.A.s 99-193 and 100-1046. P.A. 99-193 deleted the requirements concerning improvement plans as well as the sanctions for failing to make adequate yearly progress contained in 105 ILCS 5/2-3.25d, but then P.A. 100-1046 repealed 105 ILCS 5/2-3.25d in its entirety. 105 ILCS 5/2-3.25f(a) continues to state that ISBE “shall provide technical assistance to assist with the development and implementation of School and District Improvement Plans” and that schools or districts “that fail to make reasonable efforts to implement an approved Improvement Plan may suffer loss of State funds by school district, attendance center, or program as the State Board of Education deems appropriate.”

⁷ 105 ILCS 5/10-17a, amended by P.A.s 101-68, ~~amended by P.A. 102-294, eff. 1-1-22~~ (data on the number of incidents of violence that occurred on school grounds or during school-related activities and that resulted in an out-of-school suspension, expulsion, or removal to an alternative setting), 102-594, ~~eff. 7-1-22~~ (the number of teachers who are National Board Certified Teachers, disaggregated by race and ethnicity), and P.A. 102-539 (school report card deliveries delayed until 12-31 in years when the Governor declares a public health emergency).

Districts must present the report card at a regular board meeting, post it on the district’s website, make it available to newspapers of general circulation in the district, notify parents/guardians of its availability on the district’s website, provide it to parents/guardians on request, submit it to the regional superintendent or appropriate Intermediate Service Center, and otherwise disseminate it as required by State law. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

⁸ Required by 105 ILCS 5/2-3.153 and 23 Ill.Admin.Code §1.97. The State Superintendent must publicly report on the survey indicators of learning conditions resulting from the administration of the instrument at the individual school, district, and State levels. A district may use an alternate learning instrument approved by the State Superintendent at its own cost. These survey instruments are authorized by July 1 each year and posted at: www.isbe.net/Pages/5Essentials-Survey.aspx. 23 Ill.Admin.Code §1.97(g)(1)-(2). To use an alternate survey instrument, the district must submit a form developed for this purpose and posted at www.isbe.net/Pages/5Essentials-Survey.aspx to the State Superintendent on or before a date established by the State Superintendent each year. *Id.*

Insert the following sentence for districts that administer an alternate survey of learning conditions at their own cost: “The District has elected to use an alternate climate survey of learning conditions instrument.”

Instruction

School Year Calendar and Day ¹

School Calendar

The School Board, upon the Superintendent's recommendation and subject to State regulations, annually establishes the dates for opening and closing classes, teacher institutes and in-services, the length and dates of vacations, and the days designated as legal school holidays.² The school calendar shall have a minimum of 185 days to ensure 176 days of actual student attendance.³

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

² State-mandated school holidays are found in 105 ILCS 5/24-2, amended by P.A.s 101-642 and 102-15. See policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing. The law allows a school board to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on five identified school holidays if: (1) the school board first holds a public hearing on the proposal; and (2) the person or persons honored by the holiday are recognized through instructional activities conducted on the school holiday or on the first school day preceding or following the school holiday. Districts must redo the public hearing process in the event they change plans for use of holidays. See Ill. State Board of Education (ISBE) guidance at: www.isbe.net/Documents/district-holiday-plans13.pdf. This is an item on which collective bargaining may be required, and a board that wishes to implement this law should consult its attorney.

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

If the county board or board of election commissioners chooses a school to be a polling place, the school district must make the school available. 10 ILCS 5/11-4.1. For the Election Day, the law encourages a school district to either: (1) close the school; or (2) hold a teachers' institute on that day with the students not in attendance. *Id.* and 105 ILCS 5/24-2, amended by P.A.s 101-642 and 10 ILCS 5/2A-1.1c, added by P.A. 102-15 and repealing on 1-1-23, required all government offices, with the exception of election authorities, to be closed, unless authorized to be used as a location for election day services or as a polling place for *2020 General Election Day*, and it required schools to be available to an election authority as a polling place for *2020 General Election Day* and on 11-8-22 for *2022 General Election Day*. *Id.*

³ The school calendar must have a minimum 185 days to ensure 176 days of actual pupil attendance that may include remote learning days, blended remote learning days, and up to five remote and blended remote learning planning days pursuant to 105 ILCS 5/10-30, added by P.A. 101-643. 105 ILCS 5/10-19, amended by P.A.s 101-12 and 101-643, and 5/24-1; 23 Ill.Admin.Code §1.420. See policy 4:180, *Pandemic Preparedness; Management; and Recovery*, for information about remote and/or blended remote learning day plans. Schools must be closed during county institute. 105 ILCS 5/24-3. The school calendar may be a mandatory subject of collective bargaining. The calendar for the school term and any changes must be submitted to and approved by the regional superintendent before the calendar or changes may take effect. 105 ILCS 5/10-19.

Commemorative Holidays

The teachers and students shall devote a portion of the school day on each commemorative holiday designated in the School Code to study and honor the commemorated person or occasion.⁴ The Board may, from time to time, designate a regular school day as a commemorative holiday.

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E-learning days allow a school district to provide instruction to students electronically while they are not physically present due to inclement weather and other unexpected events. 105 ILCS 5/10-20.56, added by P.A. 101-12 and amended by P.A.s 101-643, ~~and~~ 102-584 (e-learning days allowed when a school is selected as a polling place under the Election Code), ~~and 102-697 opened the use of e-learning days from three pilot districts to all districts that meet the requirements of the statute.~~ Before a school district can implement an e-learning program and use e-learning days it must, along with other requirements (1) hold a public hearing on the initial proposal for the e-learning program, (2) obtain verification from the Regional Office of Education (ROE) or Intermediate Service Center (ISC) for the school district that the initial proposal meets the requirements specified in the law, and (3) by resolution adopt a research-based program for district-wide e-learning days. Before implementing an e-learning program, boards must collectively bargain the impact of the program on the wages, hours, terms, and conditions of employment with employee representative(s). More information about e-learning is available at: www.isbe.net/Pages/Electronic-Learning.aspx. ~~The law requires that districts pay employees and contractors who provide educational support services their regular rate of pay if the employee/contractor otherwise would have worked on an e-learning day. Id. at (d-10) and (d-15). Retroactive payments for e-learning days used during 2021-2022 school year are also required if employees or contractors were unpaid or employees were required to use earned paid time off. Id. at (d-20). However, payment is not required if the day(s) are (or were) rescheduled. Consult the board attorney regarding whether the board must pay contractors for consumables, such as fuel and school meals; the legislative history supports that consumables were not intended to be part of the payment. See 102nd General Assembly House Transcript 3-1-22, p. 77, available at: www.ilga.gov/house/transcripts/htrans102/10200077.pdf.~~

⁴ 105 ILCS 5/24-2(c), amended by P.A. 102-411, lists the following as commemorative holidays: Jan. 17 (Muhammad Ali's birthday), Jan. 28 (Christa McAuliffe Day commemorating space exploration); Feb. 15 (Susan B. Anthony's birthday); Mar. 29 (Vietnam War Veterans' Day); Sept. 11 (Sept. 11th Day of Remembrance); the school day immediately preceding Veterans' Day (Korean War Veterans' Day); Oct. 1 (Recycling Day); Oct. 7 (Iraq and Afghanistan Veterans Remembrance Day); and Dec. 7 (Pearl Harbor Veterans' Day).

Other commemorative holidays include, but are not limited to: Arbor and Bird Day on the last Friday in April (105 ILCS 5/27-18); Leif Erickson Day on October 9 if a school day and otherwise on a school day nearest the date (105 ILCS 5/27-19); American Indian Day on the 4th Friday of September (105 ILCS 5/27-20); Ill. Law Week during the first full school week in May (105 ILCS 5/27-20.1); Just Say No Day on a school day in May designated by official proclamation of the Governor (105 ILCS 5/20.2); Ronald Reagan Day on Feb. 6 (5 ILCS 490/2); Barack Obama Day on August 4 (5 ILCS 490/3); Indigenous Peoples Day on the last Monday in September (5 ILCS 490/7); Lincoln's Birthday February 12 (5 ILCS 490/60); Juneteenth National Freedom Day on June 19 each year (5 ILCS 490/63, amended by P.A.s 102-14, eff. 1-1-22 (second to pass both houses and controlling (5 ILCS 70/6)) and 102-334 (first to pass both houses)) – potential conflicts related to celebrating Juneteenth when it falls on a Saturday or Sunday exist, e.g., P.A. 102-14 states “when June nineteenth falls on a Saturday or Sunday, neither the preceding Friday nor the following Monday shall be held or considered as a *paid* holiday” but contrast P.A. 102-334, stating “when June nineteenth falls on a Sunday, the following Monday shall be held and considered the holiday” – notice the word *paid* is missing; consult the board attorney about whether Juneteenth should be celebrated as an *unpaid holiday* on either the preceding Friday or the following Monday when it falls on a Saturday or Sunday, respectively, or not at all when it falls on a Saturday); Martin Luther King, Jr. Birthday the third Monday in January (5 ILCS 490/65); Prairie Week the third full week in September (5 ILCS 490/75); Retired Teachers' Week the fourth week in May (5 ILCS 490/80); Veterans Day November 11 (5 ILCS 490/90); Preventing Lost Potential Day September 19 (5 ILCS 490/141); Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade on March 25 (5 ILCS 490/155); the first full week of January is Emancipation Proclamation Week (5 ILCS 490/160); Mother Mary Ann Bickerdyke Day on the second Wednesday in May (5 ILCS 490/175); April is Arab American Heritage Month (5 ILCS 490/6); and the first full week of April each year is Autism Acceptance Week (5 ILCS 490/137, added by P.A. 102-588).

School Day

The Board establishes the length of the school day with the recommendation of the Superintendent and subject to State law requirements.⁵ The Superintendent or designee shall ensure that observances required by State law are followed during each day of school attendance.⁶

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⁵ A school day is required to consist of a minimum five clock-hours under the direct supervision of a teacher or non-teaching personnel or volunteer personnel that provides non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a), in order to qualify as a full day of attendance, unless (1) the Governor issues a disaster declaration due to a public health emergency pursuant 20 ILCS 3305/7, and (2) the State Superintendent of Education establishes minimum clock-hour requirements to align with the circumstances of the Governor's disaster declaration. 105 ILCS 5/10-19.05, added by P.A. 101-12 and amended by P.A. 101-643. See www.isbe.net/Documents/SB28Instructional-Day.pdf for ISBE's notice regarding this law. See 105 ILCS 5/10-19.05, added by P.A. 101-12 and amended by P.A. 101-643, for additional exceptions to the attendance calculation.

Contrast 105 ILCS 5/18-12. It allows a partial day of attendance to be counted as a full day due to an adverse weather condition, condition beyond the control of the school district that poses a health and safety threat, or use of school facilities by local or county authorities for holding a memorial or funeral service in remembrance of a community member (up to two school days per school year) provided one of following conditions is met: (1) the school district has provided at least one hour of instruction prior to the closure of the school district; (2) a school building has provided at least one hour of instruction prior to the closure of the school building; or (3) the normal start time of the school district is delayed. The law also outlines the process to claim attendance prior to providing any instruction when a school district must close a building or buildings, but not the entire district, after consultation with a local emergency response agency or due to a condition beyond the control of the district. Additionally, 105 ILCS 5/18-12.5 outlines the process for claiming attendance when a school district must close a building or buildings, but not the entire district, specifically because of a public health emergency. Attendance for such days may only be claimed if the school building(s) was scheduled to be in operation on those days.

Alternative education programs may provide fewer than five hours under certain circumstances. [105 ILCS 5/2-3.33a and 105 ILCS 5/13B-50](#).

⁶ 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. Note that the Illinois statute does not require every student to recite the Pledge – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the Pledge, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the Pledge. West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943); Sherman v. Cmty. Consol. Sch. Dist. 21 of Wheeling Twp., 980 F.2d 437 (7th Cir. 1992). Consider using permissive rather than mandatory language to introduce the recitation of the Pledge, such as, “You may now stand to recite the Pledge.” Schools may, of course, require that non-participants maintain order and decorum appropriate to the school environment.

The Silent Reflection and Student Prayer Act mandates a *brief period of silence* for all Illinois public school students at the opening of each school day. 105 ILCS 20/1. A student filed a federal lawsuit challenging the constitutionality of this law under the First Amendment, but the law was ultimately upheld by the Appeals Court. Sherman v. Koch, 623 F.3d 501 (7th Cir. 2010), *cert denied by* 565 U.S. 815 (2011). 105 ILCS 5/10-20.46 requires a moment of silence to recognize veterans during any type of event held at a district school on Nov. 11. [See fn 2 above for more discussion.](#)

LEGAL REF.: 105 ILCS 5/10-19, 5/10-19.05, 5/10-20.56, 5/10-20~~4~~.46, 5/10-30, 5/18-12, 5/18-12.5, 5/24-2, 5/27-3, 5/27-18, 5/27-19, 5/27-20, 5/27-20.1, and 5/27-20.2, ~~and~~ 20/4.
10 ILCS 5/11-4.1, Election Code.
5 ILCS 490/, State Commemorative Dates Act.
23 Ill.Admin.Code §1.420(f).
Metzl v. Leininger, 850 F.Supp. 740 (N.D. Ill. 1994), *aff'd by* 57 F.3d 618 (7th Cir. 1995).

CROSS REF.: 2:20 (Powers and Duties of the School Board; Indemnification), 4:180 (Pandemic Preparedness; Management; and Recovery), 5:200 (Terms and Conditions of Employment and Dismissal), 5:330 (Sick Days, Vacation, Holidays, and Leaves), 6:60 (Curriculum Content), 6:70 (Teaching About Religions), 7:90 (Release During School Hours)

DRAFT

Instruction

School Wellness¹

Student wellness, including good nutrition and physical activity, shall be promoted in the District’s educational program, school-based activities, and meal programs.² This policy shall be interpreted consistently with Section 204 of the Child Nutrition and WIC Reauthorization Act of 2004 and the Healthy Hunger-Free Kids Act of 2010 (HHFKA).³

The Superintendent will ensure:⁴

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 requires this subject matter to be covered in policy and controls its content. The federal Child Nutrition and WIC Reauthorization Act of 2004 (Child Nutrition Act) requires school districts participating in a program authorized by the National School Lunch Act (NSLA) (42 U.S.C. §1751 *et seq.*) or the Child Nutrition Act to have a school wellness policy. Pub. L. 108-265, Sec. 204. State law required the Ill. State Board of Education (ISBE) to “establish a State goal that all school districts have a wellness policy.” 105 ILCS 5/2-3.139. ISBE complied in October 2007 by “instruct[ing] all public school districts to establish a School Wellness Policy.” The federal and State laws list mandatory topics for the policy. The second sentence of this policy should be deleted if the district does not participate in the NSLA or the Child Nutrition Act.

See ISBE’s numerous resources at: www.isbe.net/Pages/Nutrition-and-Wellness.aspx. Action for Healthy Kids is a national organization dedicated to overcoming the “epidemic of overweight, undernourished and sedentary youth by focusing on changes in schools;” see its resources at: www.actionforhealthykids.org/index.php.

This sample policy seeks to be both legally compliant and consistent with good governance principles. Both federal and State laws allow each school district to determine how the required topics are addressed. Good governance principles suggest that the board should establish goals with community and stakeholder input. The administration should determine how to achieve the goals. The board should monitor this policy by requesting and reviewing periodic implementation data.

The Ill. Dept. of Agriculture and ISBE are directed to create the Farm Fresh Schools Program. 105 ILCS 124/, Farm Fresh Schools Program Act; 30 ILCS 105/5.728, Farm Fresh Schools Program Fund. They are also directed to administer a grant program to further the Program’s intent of “reduc[ing] obesity and improve[ing] nutrition and public health, as well as strengthen[ing] local agricultural economies by increasing access to and promoting the consumption of locally grown fruits and vegetables in schools and increasing physical activities and programs that promote pupil wellness.” 105 ILCS 124/10.

² 7 C.F.R. §210.31(a) and (c)(1). The law does not require *school-based activities* to be listed in policy – only that boards implement them. Federal law requires consideration of *evidence-based strategies and techniques* when implementing school-based activities. A board that chooses to list these activities must update them as they change by readopting the policy.

For boards that have developed and wish to list their chosen evidence-based school-based activities, add the following sentence to the paragraph as the second sentence: “The District’s school-based activities include: [*list the chosen evidence-based school-based activities*].”

For boards that have not yet developed and implemented their evidence-based school-based activities and need technical assistance, see the websites for:

1. The U.S. Dept. of Agriculture (USDA) at: www.fns.usda.gov/tn/local-school-wellness-policy~~https://healthy-meals.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/other-school-based-activities~~; and
2. The Alliance for a Healthier Generation (AHG) at: www.healthiergeneration.org/.

³ Healthy Hunger-Free Kids Act of 2010 (HHFKA); 42 U.S.C. §1758b (Pub.L. 111-296); 7 C.F.R. §§210.10 and 210.31(a).

⁴ *Id.*; 7 C.F.R. §210.31(c)(4) (identification of school official responsible for implementation of the policy), §210.31 (d)(2) (informing the public about the policy and making it available on an annual basis), §210.31 (d)(3) (informing the public of the progress toward meeting the goals of the policy by making triennial assessments available), and §210.31(e) (policy implementation, assessments, and updates). See also f/n 20, below.

1. Each school building complies with this policy;
2. The policy is available to the community on an annual basis through copies of or online access to the Board Policy Manual⁵; and
3. The community is informed about the progress of this policy's implementation.

Goals for Nutrition Education and Nutrition Promotion ⁶

The goals for addressing nutrition education and nutrition promotion include the following:

- Schools will support and promote sound nutrition for students.
- Schools will foster the positive relationship between sound nutrition, physical activity, and the capacity of students to develop and learn.
- Nutrition education will be part of the District's comprehensive health education curriculum. See Board policy 6:60, *Curriculum Content*. ⁷

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

This sample policy identifies the superintendent as the school official responsible to ensure compliance and oversee the policy. When the rules require specific identification of a school official, the policy does not include the delegation language *or designee*. **[School boards] must identify the [school official(s)] responsible for oversight of [its wellness policy] to ensure compliance. [Boards] have discretion and are the most qualified to identify the best candidate for [their wellness] policy leadership as size, resources, and needs vary greatly among [school districts]**. See Federal Register Vol. 81, No. 146 at 50155 at: www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf.

For boards that wish to identify a school official other than the superintendent, delete ~~Superintendent~~ and replace it with the responsible school official's title.

The intent of the rule is that schools "notify households on an annual basis of the availability of the local school wellness policy information and provide information that would enable *interested households* to obtain additional details." Fed. Reg. Vol. 81, No. 146 at 50160. However, the rule states, "[i]nform the *public* about the content and implementation of the local school wellness policy, and make the policy and any updates to the policy available to the public on an annual basis."

To achieve the intent of this requirement, the regulations suggest several methods for districts, which include a common method many districts likely already use: post the policy on the websites for the *public*, and use the student handbook to distribute important information to *interested households*.

⁵ For boards that distribute their wellness policies via student handbooks and want to list that in the text of their policies, insert "and distributed to students and their parents/guardians through student handbooks". For sample handbook language, see the Illinois Principals Association *Online Model Student Handbook (MSH)* at: www.ilprincipals.org/resources/model-student-handbook www.ilprincipals.org/msh/.

⁶ Goals for nutrition education and nutrition promotion are required topics, but the local board may determine what goals are appropriate. Pub. L. 108-265, Sec. 204(a)(1) and Pub. L. 111-296; 105 ILCS 5/2-3.139(a)(2); and 7 C.F.R. §210.31(c)(1). Replace this policy's text with a board's own locally-developed nutritional education and promotion goals.

Nutrition promotion, required by Pub. L. 111-296, is not well-described or defined. The Food Nutrition Service (FNS) describes *nutrition promotion* more clearly in its technical assistance materials and the proposed 7 C.F.R. Part 210 rules (Fed. Reg. Vol. 79, No. 38 at 10695), dated Feb. 26, 2014, which state, "... evidence based techniques and scientifically-based nutrition messages targeted to a specific audience to inspire and motivate them to take action and use these techniques and messages to create environments and food service venues (classroom, cafeteria, a la carte, vending machines, school stores, snack bars, fundraisers, home, etc.) that encourage healthy nutrition choices, as well as enhance and encourage participation in school meal programs."

More specific materials about nutrition education and promotion, including songs, games, posters, videos, event-planning booklets, wellness communication toolkits, school garden activities, and a graphics library, have also been developed by the FNS' Team Nutrition at: www.fns.usda.gov/tn/resource-library.

Technical assistance for:

1. Nutritional promotion at: www.fns.usda.gov/tn/local-school-wellness-policy healthymeals.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/nutrition-promotion.
2. Goals development for and implementation of nutrition education and promotion are available from AHG at: www.healthiergeneration.org/.

⁷ 105 ILCS 110/3 and 23 Ill.Admin.Code §1.420(n).

Goals for Physical Activity ⁸

The goals for addressing physical activity include the following:

- Schools will support and promote an active lifestyle for students.
- Physical education will be taught in all grades and shall include a developmentally planned and sequential curriculum that fosters the development of movement skills, enhances health-related fitness, increases students' knowledge, offers direct opportunities to learn how to work cooperatively in a group setting, and encourages healthy habits and attitudes for a healthy lifestyle. See policies 6:60, *Curriculum Content* and 7:260, *Exemption from Physical Education*. ⁹
- During the school day, all students will be required to engage in a daily physical education course, unless otherwise exempted. See policies 6:60, *Curriculum Content* and 7:260, *Exemption from Physical Education*. ¹⁰
- The curriculum will be consistent with and incorporate relevant *Illinois Learning Standards for Physical Development and Health* as established by the Ill. State Board of Education (ISBE). ¹¹

Nutrition Guidelines for Foods Available During the School Day; Marketing Prohibited ¹²

Students will be offered and schools will promote nutritious food and beverage choices during the school day that are consistent with Board policy 4:120, *Food Services* (requiring compliance with the nutrition standards specified in the U.S. Dept. of Agriculture's (USDA) *Smart Snacks* rules). ¹³

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

⁸ This is a required topic, but the local board may determine what goals are appropriate. Pub.L. 108-265, Sec. 204(a)(1); 105 ILCS 5/2-3.139(a)(2); and 7 C.F.R. §210.31(a) and (c)(1).

⁹ 105 ILCS 5/27-5 and 27-6, [amended by P.A. 102-405](#); 23 Ill.Admin.Code §1.425. See also f/n [3129](#) in policy 6:60, *Curriculum Content*. For standards-based lesson plans and curricula for pre-kindergarten through grade 8, classroom-based lesson plans, recipes, guidance to improve the quality of school meals, and other materials for nutrition education and promotion, including songs, games, posters, videos, event-planning booklets, wellness communication toolkits, school garden activities, and a graphics library, see the resources developed by the FNS' Team Nutrition at: www.fns.usda.gov/tn/resource-library.

¹⁰ Id. This policy's sample text is based upon federal and State *goals* while sample policy 6:60, *Curriculum Content*'s text is based only upon State curriculum requirements that require a minimum of three days of physical education per five-day week. Ensure the text in this policy's goal aligns with the district's practice stated in policy 6:60 for meeting the minimum requirements of 23 Ill.Admin.Code §1.425(b).

¹¹ Schools must "set student learning objectives which meet or exceed goals established by the State." 105 ILCS 5/2-3.63. The *Learning Standards* can be found on ISBE's website at: www.isbe.net/Pages/Standards-Courses.aspx, www.isbe.net/Pages/Learning-Standards.aspx. See [State goals 19-24 for physical education and health at: www.isbe.net/Documents/Goals-19-24-and-Perf-Descrip.pdf.](#) ~~[State Goal 20: Achieve and maintain a health-enhancing level of physical fitness based upon continual self-assessment at:](#)~~

105 ILCS 5/27-6.5 describes physical fitness assessments required, beginning with the 2016-17 school year and every school year thereafter, for grades 3-12 in an effort to meet State Goal 20 of the *Illinois Learning Standards for Physical Development and Health*. See also 23 Ill.Admin.Code §1.425 (f) and (h); ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers* (Rev. [5-22-17Sept. 2021](#)) at: www.isbe.net/Documents/Physical_Fitness_Assessment_FAQ.pdf.

¹² The policy must include the nutrition guidelines selected by the board for "all foods available during the school day with the objective of promoting student health and reducing childhood obesity." Pub. L. 108-265, Sec. 204(a)(2); 105 ILCS 5/2-3.139(a)(1); and 7 C.F.R. §210.10 and 210.31(a), (c)(2), and (c)(3)(i)-(iv). 42 U.S.C. 1758b(b)(2)(A) requires that each local school wellness policy include nutrition guidelines for all foods and beverages available for sale on the school campus during the school day to ensure they are consistent with the statutory and regulatory provisions governing school meals (7 C.F.R. §§210.10, 220.8 and 220.10) and competitive foods (7 C.F.R. §210.11) as applicable.

Prior to July 2016 when 7 C.F.R. § 210.10 and 7 C.F.R. § 210.31(c) (respectively) became effective, the current *Dietary Guidelines for Americans* published jointly by the U.S. Depts. of Health and Human Services and Agriculture (USDA) were used as nutrition guidelines.

In addition, in order to promote student health and reduce childhood obesity,¹⁴ the Superintendent or designee shall:

1. Restrict the sale of *competitive foods*, as defined by the USDA, in the food service areas during meal periods;
2. Comply with all ISBE rules; and
3. Prohibit marketing during the school day of foods and beverages that do not meet the standards listed in Board policy 4:120, *Food Services*, i.e., in-school marketing of food and beverage items must meet *competitive foods* standards.¹⁵

Competitive foods standards do not apply to foods and beverages available, but not sold in school during the school day; e.g., brown bag lunches, foods for classroom parties, school celebrations, and reward incentives.¹⁶

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¹³ 7 C.F.R. §§210.10 (meal requirements for lunches and after-school snacks); 210.11(c) (general nutrition standards for competitive food, i.e., *Smart Snacks*); and 210.31(a) and (c) (encompassing all other nutrition requirements, including foods not sold to students during the school day (classroom parties)).

¹⁴ 7 C.F.R. §210.31(c)(3)(iv).

¹⁵ 7 C.F.R. §§210.11(a)(2) and 210.31(c)(3)(iii); 23 Ill. Admin. Code §305.5. For a definition of *competitive foods*, see 4:120-AP, *Food Services; Competitive Foods; Exemptions*.

¹⁶ 7 C.F.R. §210.31(c)(2). This sample policy does not apply competitive food standards to foods not sold in schools; i.e., foods that students bring into the school from home, etc.

The final [federal] rule does not require that local school wellness policy standards for *foods provided in schools during the school day but not available for sale* conform to the school meal requirements or the competitive foods standards. In fact, the preamble to the final rule reiterates this saying, “[a]gain, it should be noted that with regard to foods provided, but not sold, in schools, local jurisdictions have the discretion to adopt standards that conform to [the competitive food standards] or to adopt more or less stringent standards.” Similarly, the preamble to the final rule clearly states the rule does not require school boards to address standards for food brought from home for individual consumption. See Federal Register Vol. 81, No. 146 at 50158 at: www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf. Emphasis added.

This sample policy adopts less stringent standards for foods not sold in schools. For boards that wish to adopt standards that conform to the competitive food standards or apply even more stringent standards to foods available, but not sold during the school day, delete the last sentence of this subhead: ~~Competitive foods standards do not apply to foods and beverages available, but not sold in school during the school day; e.g., foods for classroom parties, school celebrations, and reward incentives.~~ and choose one of the following sentences to replace it:

Option 1: The District applies competitive foods standards listed in Board policy 4:120, Food Services, to foods available, but not sold, in schools.

Option 2: The District applies more stringent standards than the competitive foods standards to foods available, but not sold, in schools. These include [list the chosen standards to foods available, but not sold, in schools].

The AHG encourages school officials to consider prohibiting foods as a reward and using the *Smart Snacks* standards for foods available, but not sold during the school day. However, enforcing such standards against students who are sent to school with snacks from their parents/guardians is difficult and may be considered overreach. Further, such a standard may open the district to challenges. Consult the board attorney about enforcement of standards that meet the *competitive foods* standards – or even more stringent standards – upon foods available, but not sold during the school day, i.e., choosing Options 1 or 2, above.

Exempted Fundraising Day (EFD) Requests ¹⁷

All food and beverages sold to students on the school campuses of participating schools during the school day must comply with the “general nutrition standards for competitive foods” specified in federal law.

ISBE rules prohibit EFDs for grades 8 and below in participating schools.

The Superintendent or designee in a participating school may grant an EFD for grades 9 through 12 in participating schools. To request an EFD and learn more about the District’s related procedure(s), contact the Superintendent or designee. The District’s procedures are subject to change. The number of EFDs for grades 9 through 12 in participating schools is set by ISBE rule.

Guidelines for Reimbursable School Meals ¹⁸

Reimbursable school meals served shall meet, at a minimum, the nutrition requirements and regulations for the National School Lunch Program and/or School Breakfast Program. ¹⁹

Unused Food Sharing Plan ²⁰

In collaboration with the District’s local health department, the Superintendent or designee will:

1. Develop and support a food sharing plan (Plan) for unused food that is focused on needy students. ²¹
2. Implement the Plan throughout the District.
3. Ensure the Plan complies with the Richard B. Russell National School Lunch Act, as well as accompanying guidance from the U.S. Department of Agriculture on the Food Donation Program. ²²
4. Ensure that any leftover food items are properly donated to combat potential food insecurity in the District’s community. *Properly* means in accordance with all federal regulations and State and local health and sanitation codes.

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¹⁷ Required by 23 Ill.Admin.Code §305.15(c)(2), 7 C.F.R. §§210.11(b)(4), (c)(2) and 210.30(c)(2) for participating schools that want to grant EFDs.

For elementary districts, delete these sentences: ~~The Superintendent or designee in a participating school may grant an EFD for grades 9 through 12 in participating schools. To request an EFD and learn more about the District’s related procedure(s), contact the Superintendent or designee. The District’s procedures are subject to change. The number of EFDs for grades 9 through 12 in participating schools is set by ISBE rule.~~

For high school districts, delete this sentence: ~~EFDs are prohibited for grades eight and below in participating schools.~~

Detailed procedures are subject to change and are too complicated for policy text. This policy seeks to balance the requirement to include procedures in the policy for requesting an EFD by providing information about the initial steps and directing the superintendent or designee to inform the requestor of the current procedure. For a list of the number of available EFDs and a more detailed sample step-by-step procedure to request them, see 4:120-AP, *Food Services; Competitive Foods; Exemptions*.

¹⁸ Inclusion in the policy is required for only those districts that participate in a program authorized by the NSLA or the Child Nutrition Act.

¹⁹ Child Nutrition Act of 1966 (42 U.S.C. §1771 *et seq.*) and NSLA (42 U.S.C. §1758).

²⁰ 105 ILCS 5/2-3.1892, added by P.A. 102-359 [and renumbered by P.A. 102-813](#).

²¹ *Needy students* is not defined by 105 ILCS 5/2-3.1892, added by P.A. 102-359 [and renumbered by P.A. 102-813](#).

²² Required for districts that participate in child nutrition programs, the National School Lunch Program and National School Breakfast Program, the Child and Adult Care Food Program (CACFP), and the Summer Food Service Program (SFSP). See 105 ILCS 5/2-3.1892, added by P.A. 102-359 [and renumbered by P.A. 102-813](#).

Delete number 3 *only if* the district participates in none of the programs listed.

Food sharing plans will depend on many local factors and require local health department involvement, so because of that, a sample **PRESS** administrative procedure is not practical and does not exist.

Monitoring ²³

At least every three years, the Superintendent shall provide implementation data and/or reports to the Board concerning this policy's implementation sufficient to allow the Board to monitor and adjust the policy (a triennial report).²⁴ This triennial report must include without limitation each of the following:

- An assessment of the District's implementation of the policy
- The extent to which schools in the District are in compliance with the policy
- The extent to which the policy compares to model local school wellness policies
- A description of the progress made in attaining the goals of the policy
- How the District will make the results of the assessment available to the public
- Where the District will retain records of the assessment ²⁵

The Board will monitor and adjust the policy pursuant to policy 2:240, *Board Policy Development*.

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²³ The policy must establish a plan for measuring implementation of the local wellness policy, including designation of one or more persons within the local educational agency at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local wellness policy. Pub. L. 108-265, Sec. 204(a)(4); 105 ILCS 5/2-3.139(a)(4); and 7 C.F.R. §210.31(c)(5), (6), and (e)(1). 105 ILCS 110/3.5(a) requires ISBE to develop and maintain a nutrition and physical activity best practices database. Materials may be found at: www.isbe.net/Pages/Nutrition-and-Wellness.aspx.

⁴² U.S.C. §1758b (Pub. L. 111-296) requires the public to receive periodic measures with the listed items. The accepted practice is annual reports. There is very little guidance to assist school districts in complying with this requirement, and school districts were expected to be working toward developing a reasonable method to implement this requirement by the end of the 2011-2012 school year. Without guidance, to ensure compliance, superintendents should contact their Regional Office of Education or [Intermediate Service Center](#) regarding their school districts' efforts to comply with this requirement. A guide to help school districts conduct an evaluation of local wellness policies is available, along with more guidance at: www.fns.usda.gov/tn/local-school-wellness-policy www.fns.usda.gov/tn/healthy/wellnesspolicy_tools.html.

²⁴ 7 C.F.R. §210.31(e)(2)(i)-(iii) and (3).

²⁵ *Id.* and §210.31(f); see also the Local Records Act, 50 ILCS 205/. It governs retention of district records; its definition of *public record* is narrower than the definition in the Freedom of Information Act. These communications must be retained only when they contain: (1) evidence of the district's organization, function, policies, procedures, or activities, or (2) informational data appropriate for preservation. Consult the board attorney for a more thorough analysis and a legal opinion about how to meet both of the federal records retention requirements discussed in f/n ~~285~~, below, and the Local Records Act.

Community Involvement ²⁶

The Board and Superintendent will actively invite suggestions and comments concerning the development, implementation, periodic reviews, and updates of the school wellness policy from parents, students, representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the community. Community involvement methods shall align their suggestions and comments to policy 2:140, *Communications To and From the Board* and/or the **Community Engagement** subhead in policy 8:10, *Connection with the Community*. ²⁷

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²⁶ A board must establish a plan in its wellness policy for involving parents, students, and representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the public in the development of the school wellness policy. Pub.L. 108-265, Sec. 204(a)(5), amended by 42 U.S.C. §1758b (Pub.L. 111-296); 105 ILCS 5/2-3.139(a)(3); 7 C.F.R. §210.31(c)(5) (requirement to describe involvement plan in policy), and 7 C.F.R. §210.31(d)(1) (requirement to allow certain stakeholders to participate in policy development, etc.).

School districts have discretion in exactly how they implement this requirement, and [e]ach [school district] is best suited to determine the distinctive needs of the community it serves. See Federal Register Vol. 81, No. 146 at 50155 at: www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf.

This requirement's awkward wording notwithstanding, a board may take compliance steps by:

1. Seeking community input or involvement during this policy's adoption and monitoring phases, and inviting suggestions and comments during the public comment portion of board meetings from time to time. This method aligns with 2:140, *Communications To and From the Board* and 2:240, *Board Policy Development*.
2. Establishing a "local school wellness committee." This method is discussed in the preamble to 7 C.F.R. §210.31(d)(1), which suggests "identifying individuals" to serve on a "local school wellness policy committee." **However, the final text of 7 C.F.R. §210.31(d)(1) does not specifically require districts to establish a local school wellness policy committee – only that they "permit [groups listed in the policy above] to participate"** See also the citation to the Federal Register, in the second paragraph of this f/n, above, discussing policy implementation discretion.

The default text of this policy follows item #1 above and does not establish a local school wellness committee. For a district that wants to appoint or approve a local school wellness committee, add the following optional sentence as the last sentence of this subhead: "As necessary, the Superintendent or designee will convene a Wellness Committee with at least one representative from each of the listed groups." Also list the Wellness Committee in 2:150-AP, *Superintendent Committees*. As much of the work of developing a plan to involve local stakeholders is administrative/staff work rather than governance work, best practice is for a Wellness Committee be an administrative committee, but consult the board attorney for guidance. See f/n 3 in policy 2:150, *Committees*, for a discussion of Open Meetings Act implications of the Wellness Committee being a board committee.

If a board wants to comply with the USDA's *encouragement* to include Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators or educators in the group to provide input about the policy, add:

“, Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators, educators” to the end of the first sentence in this subhead, immediately before: “, and community.”

²⁷ If a board has not adopted the **Community Engagement** subhead in policy 8:10, *Connection with the Community*, delete the phrase at the end of the second sentence: “Individuals shall align their suggestions and comments to policy 2:140, *Communications To and From the Board* and/or the **Community Engagement** subhead in policy 8:10, *Connection with the Community*.”

A board may also choose to post this policy on its website and include it in the student handbook.

Recordkeeping ²⁸

The Superintendent shall retain records to document compliance with this policy, the District's records retention protocols, and the Local Records Act.

LEGAL REF.: Pub. L. 108-265, Sec. 204, Child Nutrition and WIC Reauthorization Act of 2004.
42 U.S.C. §1771 et seq., Child Nutrition Act of 1966.
42 U.S.C. §1751 et seq., National School Lunch Act.
42 U.S.C. §1758b, Pub. L. 111-296, Healthy, Hunger-Free Kids Act of 2010.
42 U.S.C. §1779, as implemented by 7 C.F.R. §§210.11 and 210.31.
50 ILCS 205/ Local Records Act.
105 ILCS 5/2-3.139 and 5/2-3.189.
23 Ill.Admin.Code Part 305, Food Program.
ISBE's *School Wellness Policy* Goal, adopted Oct. 2007.

CROSS REF.: 2:140 (Communications To and From the Board), 2:150 (Committees), 2:240 (Board Policy Development), 4:120 (Food Services), 5:100 (Staff Development Program), 6:60 (Curriculum Content), 7:260 (Exemption from Physical Education), 8:10 (Connection with the Community)

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²⁸ 7 C.F.R. §210.31(f). Records must include: (1) the policy; (2) documentation demonstrating compliance with community involvement requirements, including requirements to make the local school wellness policy and triennial assessments available to the public; and (3) documentation of the triennial assessment of the local school wellness policy for each school under its jurisdiction.

See f/n 2225, above regarding the Local Records Act and 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*.

While 7 C.F.R. §210.31(f) does not require the policy text to state what records must be kept, a board that wants to include that information may insert the following text: "Records must include: (1) this policy; (2) documentation demonstrating compliance with community involvement, including requirements to make the policy and triennial assessments available to the public; and (3) documentation of the triennial assessment of this policy for each school under its jurisdiction."

Instruction

Curriculum Content¹

The curriculum shall contain instruction on subject required by State statute or regulation as follows:

1. In kindergarten through grade 8, subjects include: (a) language arts, (b) reading, (c) other communication skills, (d) science, (e) mathematics², (f) social studies, (g) art, (h) music,³ and (i) drug and substance abuse prevention including the dangers of opioid abuse.⁴ A reading opportunity of 60 minutes per day will be promoted for all students in kindergarten through grade 3 whose reading levels are one grade level or more lower than their current grade level.⁵ Daily time of at least 30 minutes (with a minimum of at least 15 consecutive minutes if divided) will be provided for supervised, unstructured, child-directed play for all students in kindergarten through grade 5.⁶ Before the completion of grade 5, students will be offered

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¹ Districts must have a policy on physical education (23 Ill.Admin.Code §1.425) and what grade level(s) students will be offered cursive writing instruction (105 ILCS 5/27-20.7). Policies on the remaining topics in this policy are optional. State or federal law controls this policy’s content. 23 Ill.Admin.Code §1.420, recommends that activities, including student internships and observations of government in action, be a part of the instructional program where appropriate.

State law mandates certain courses of study but local school boards may set requirements exceeding State-law mandated courses of study. 105 ILCS 5/10-20.8 and 5/27-1 et seq. [For a resource on instructional mandates, see Illinois Instructional Mandates \(formerly Mandated Units of Study\), at: www.isbe.net/Pages/Learning-Standards.aspx, under the Administrator Resources tab.](http://www.isbe.net/Pages/Learning-Standards.aspx)

² 105 ILCS 5/2-3.156 requires the Ill. State Board of Education (ISBE) to coordinate, adapt and develop middle and high school math curriculum models. There is no consistent definition for *middle school or high school* in either State or federal law. Districts are not required to use ISBE’s models and may develop their own mathematics curricula.

The purpose of the math curriculum models will be to aid school districts and teachers in implementing the *Common Core Standards*. The ISBE has adopted new math and English language arts (ELA) standards for K-12 education referred to as the *New Ill. State Learning Standards Incorporating the Common Core*. The goal of incorporating the *Common Core Standards* into the *State Goals for Learning and Learning Standards* is to better prepare Ill. students for success in college and the workforce in a competitive global economy. See www.isbe.net/Documents/ccs-faq-0813.pdf.

The terms *Common Core Standards* and the *New Ill. State Learning Standards Incorporating the Common Core* are synonymous. Referencing the Ill. Learning Standards includes them both. That is because they are incorporated by reference into ISBE’s rules and *State Goals for Learning and Learning Standards*. A district that wants to include the term *Common Core Standards* in its policy may do so; however, districts should understand that referring to the *Common Core Standards* only will cover only math and ELA learning standards and goals and not any other subject areas that the *Ill. Learning Standards* cover. The best practice is to continue using *Ill. Learning Standards*, which includes the *Common Core Standards*.

³ 23 Ill.Admin.Code §1.430.

⁴ 105 ILCS 5/27-13.2, amended by P.A. 102-195, requires that in addition to instruction, study, and discussion of effective methods for the prevention and avoidance of drugs and substance abuse, the subject must also cover the dangers of opioid abuse.

⁵ 105 ILCS 5/10-20.53.

⁶ 105 ILCS 5/27-6.3, added by P.A. 102-357. Schools must provide at least 30 minutes of play time for any school day five clock hours or longer in length. For any school days less than that, the total time allotted during the school day must be at least one-tenth of a day of attendance for the student. Time spent dressing or undressing for outdoor play may not count towards the daily time allotment. Play time must be computer-, tablet-, phone-, and video-free. Play time may be withheld as a disciplinary or punitive action only if a student’s participation poses an immediate threat to the safety of the student or others. Id.

at least one unit of cursive instruction.⁷ In grades 6, 7, or 8, students must receive at least one semester of civics education in accordance with Illinois Learning Standards for social science⁸

2. In grades 9 through 12, subjects include:⁹ (a) language arts, (b) writing intensive courses, (c) science, (d) mathematics,¹⁰ (e) social studies including U.S. history, American government and one semester of civics,¹¹ (f) foreign language,¹² (g) music, (h) art, (i) driver and safety education,¹³ and (j) vocational education.

Students otherwise eligible to take a driver education course must receive a passing grade in at least eight courses during the previous two semesters before enrolling in the course. The Superintendent or designee may waive this requirement if he or she believes a waiver to be in the student's best interest.¹⁴ The course shall include: (a) instruction necessary for the safe operation of motor vehicles, including motorcycles, to the extent that they can be taught in

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⁷ 105 ILCS 5/27-20.7 requires districts to offer students a unit of cursive instruction before they complete grade 5. Other than before completing grade 5, the law is silent about what grade level(s) in which students must receive their unit of cursive instruction. This provides an opportunity for a board to have a conversation with the superintendent about local community expectations and direct him or her to determine the appropriate grade level(s) in which students will be offered a unit of cursive instruction.

Use the following alternative if the board wants to specify grade level(s) before the end of grade 5 in which cursive instruction will be offered:

A unit of cursive instruction will be offered in grade(s) _____.

⁸ 105 ILCS 5/27-3.10, added by P.A. 101-254. The statute specifically states that school districts may utilize private funding available for offering civics education.

⁹ 105 ILCS 5/27-22, amended by P.A.s 101-643, [101-654](#), [102-366](#), [102-551](#), and [102-864](#); 23 Ill.Admin.Code §1.440. ISBE may adopt rules to modify these requirements for students in grades 9 through 12 if the Governor declares a disaster due to a public health emergency pursuant to 20 ILCS 3305/7. 105 ILCS 5/27-22(e)(3.5), amended by P.A. 101-654 and [102-864](#), and [5/27-22\(e\)\(3.5\)](#) and [\(e-5\)\(3.5\)](#), added by P.A. 102-864, requires "a year of a course that includes intensive instruction in computer literacy, which may be English, social studies, or any other subject." Because computer literacy may be included within another subject, it is not listed here, but in number 6 of this policy with f/n 25, below.

¹⁰ 105 ILCS 5/2-3.156. See f/n 2.

105 ILCS 5/27-22(e)(3), amended by P.A. 101-464, allows the substitution of an advanced placement computer science course for a year of mathematics. For specific requirements, see 6:300-E2, *State Law Graduation Requirements*, and 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-entering Students*.

¹¹ 105 ILCS 5/27-22(e)(5). The statute specifically states that school districts may utilize private funding available for offering civics education

¹² The General Assembly encouraged school boards to implement American Sign Language courses into the school foreign language curriculum. 105 ILCS 5/10-20.52. Senate Joint Resolution 68 (96th General Assembly, 2010) encourages school districts to explore the introduction of Arabic as a foreign language in their curriculums.

¹³ The ISBE rule on driver education personnel is found at 23 Ill.Admin.Code §252.40. School districts may contract with a commercial driver training school (CDTS) for driver education. 105 ILCS 5/27-24.2, amended by P.A. 101-450. To qualify to contract with a school district, a CDTS must: (a) hold a valid license issued by the Ill. Sec. of State; (b) provide teachers who meet the educator licensure and endorsement requirements under 105 ILCS 5/21B; and (c) follow the same evaluation and observation requirements that apply to non-tenured teachers under 105 ILCS 5 24-A. Id. A district contracting with a CDTS must provide a list to ISBE of the CDTS instructors. Id. The list must include the name, personal ISBE identification number, birth date and driver's license number of each instructor who will teach driver education. Id. Although a formal waiver for outsourcing of driver's education is no longer required, districts must consider their applicable collective bargaining agreement(s), board policy, and the reduction in force (RIF) provisions of the School Code as they relate to outsourcing of instructional staff. Consult the board attorney for guidance.

A school district may decide to allow a student to take a portion of the driver education course through a distance learning course. This is determined on a case-by-case basis and must be approved by the district's administration, the student's driver's education teacher, and the student's parent/guardian. 105 ILCS 5/27-24.2, amended by P.A. 101-183; 23 Ill.Admin.Code §252.20(c)(2).

¹⁴ 105 ILCS 5/27-24.1, amended by P.A. 102-455, ~~eff. 1-1-22~~, and 5/27-24.2; 23 Ill.Admin.Code §252.20(c)(2).

the classroom,¹⁵ (b) classroom instruction on distracted driving as a major traffic safety issue,¹⁶ (c) instruction on required safety and driving precautions that must be observed at emergency situations, highway construction and maintenance zones, and railroad crossings and their approaches,¹⁷ and (d) instruction concerning law enforcement procedures for traffic stops, including a demonstration of the proper actions to be taken during a traffic stop and appropriate interactions with law enforcement.¹⁸ Automobile safety instruction covering traffic regulations and highway safety must include instruction on the consequences of alcohol consumption and the operation of a motor vehicle.¹⁹ The eligibility requirements contained in State law for the receipt of a certificate of completion from the Secretary of State shall be provided to students in writing at the time of their registration.²⁰

3. In grades 7 through 12, as well as in interscholastic athletic programs, steroid abuse prevention must be taught.²¹
4. In kindergarten through grade 12, provided it can be funded by private grants or the federal government, violence prevention and conflict resolution must be stressed, including: (a) causes of conflict, (b) consequences of violent behavior, (c) non-violent resolution, and (d) relationships between drugs, alcohol, and violence.²² In addition, anti-bias education and intergroup conflict resolution may be taught as an effective method for preventing violence and lessening tensions in schools; these prevention methods are most effective when they are respectful of individuals and their divergent viewpoints and religious beliefs, which are protected by the First Amendment to the Constitution of the United States.²³

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¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ 105 ILCS 5/27-17, amended by P.A. 102-971, eff. 1-1-23.

²⁰ The Ill. Vehicle Code, 625 ILCS 5/6-408.5, amended by P.A. 102-1100, contains these requirements; they are paraphrased below and may be added to the policy or otherwise disseminated.

Before a certificate of completion will be requested from the Secretary of State, a student must receive a passing grade in at least eight courses during the two semesters last ending before requesting the certificate. A certificate of completion will not be requested for any person less than 18 years of age who has dropped out of school unless the individual provides:

1. Written verification of his or her enrollment in a high school equivalency or alternative education program or a high school equivalency certificate State of Illinois High School Diploma (formerly GED certificate);
2. Written verification that before dropping out, the individual had received passing grades in at least eight courses during the two previous semesters last ending before requesting a certificate;
3. Written consent from the individual's parent/guardian and the Regional Superintendent; or
4. Written waiver from the Superintendent of the School District in which the individual resides or resided at the time he or she dropped out of school, or from the chief school administrator with respect to a dropout who attended a non-public high school. A waiver may be given if the Superintendent or chief administrator deems it to be in the individual's best interests.

²¹ 105 ILCS 5/27-23.3.

²² 105 ILCS 5/27-23.4.

²³ Optional. 105 ILCS 5/27-23.6 entitled Anti-bias education allows districts to incorporate activities to address intergroup conflict, with the objectives of improving intergroup relations on and beyond the school campus, defusing intergroup tensions, and promoting peaceful resolution of conflict.

Boards that adopt a policy to incorporate activities to address intergroup conflict pursuant to this law must make information available to the public that describes the manner in which the district has implemented the activities. Methods for making this information available include: the district's website, if any, and in the district's offices upon request. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Districts may also include the information in a student handbook and in district newsletters. The Ill. Principals Association (IPA) maintains a handbook service that coordinates with PRESS material, Online Model Student Handbook (MSH), at: www.ilprincipals.org/msh www.ilprincipals.org/resources/model-student-handbook.

See f/n 12 in sample policy 6:180, *Extended Instructional Programs*, and ensure that these policies align.

5. In grades kindergarten through 12, age-appropriate Internet safety must be taught, the scope of which shall be determined by the Superintendent or designee. The curriculum must incorporate policy 6:235, *Access to Electronic Networks*, and, at a minimum, include: (a) education about appropriate online behavior, (b) interacting with other individuals on social networking websites and in chat rooms, and (c) cyberbullying awareness and response. ²⁴
6. In all grades, students must receive developmentally appropriate opportunities to gain computer literacy skills that are embedded in the curriculum. ²⁵
7. In all grades, character education must be taught including respect, responsibility, fairness, caring, trustworthiness, and citizenship in order to raise students' honesty, kindness, justice, discipline, respect for others, and moral courage.²⁶ Instruction in all grades will include examples of behaviors that violate policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. ²⁷
8. In all schools, citizenship values must be taught, including: (a) American patriotism, (b) principles of representative government (the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois), (c)

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²⁴ 47 C.F.R. § 54.520 and 105 ILCS 5/27-13.3 control this section. "Grades kindergarten through 12" is used because federal law requires school districts that receive E-rate funding to certify that they have an Internet safety education policy for all minors. 47 C.F.R. §54.520(c)(1)(i). This federal law defines minors as any individual who has not attained the age of 17 years. 47 C.F.R. §54.520(a)(4)(i).

105 ILCS 5/27-13.3 only requires a unit on Internet safety for students in grades 3 or above. It recommends seven topics for the unit on Internet safety and required ISBE to "make available resource materials for educating children regarding child online safety." It also invites schools to "adopt an age-appropriate curriculum for Internet safety instruction of students in grades kindergarten through 12."

For boards that do not receive E-rate funds and do not want to exceed the requirements of the School Code, replace this section with the following sentence:

In grades 3 or above, the curriculum contains a unit on Internet safety, the scope of which shall be determined by the Superintendent or designee.

For boards that do not receive E-rate funds, but want to exceed the requirements of 105 ILCS 5/27-13.3 to include grades K-2, replace this section with the following sentences:

In grades 3 or above, the curriculum contains a unit on Internet safety, the scope of which shall be determined by the Superintendent or designee. In kindergarten through grade 2, age-appropriate Internet safety must be taught.

²⁵ 105 ILCS 5/10-20.73-79 (~~final citation pending~~), added by P.A. 101-654 and renumbered by P.A. 102-813, 5/10-20.74, and 5/27-22(e)(3.5), added by P.A. 101-654 and amended by P.A. 102-894, and 5/27-22(e-5)(3.5), added by P.A. 102-894. 105 ILCS 5/10-20.74, added by P.A. 101-654, requires that districts submit an annual report to ISBE regarding educational technology capacities and policies. See the subhead **Educational Technology Committee** and f/n 20 in 2:150-AP, *Superintendent Committees*.

²⁶ 105 ILCS 5/27-12.

²⁷ Required as part of a district's Bullying Prevention and Response Plan pursuant to 105 ILCS 5/27-23.7. Because of the negative outcomes associated with bullying in schools, the Ill. General Assembly has found "that [school districts] should educate students, parents, and [school district personnel] about what behaviors constitute prohibited bullying." 105 ILCS 5/27-23.7(a). This language aligns with policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

The Ill. General Assembly invited boards to "make suitable provisions for instruction in gang resistance education and training in all grades and include such instruction in the courses of study regularly taught in those grades." See 105 ILCS 5/27-23.10(c). A board that shares this concern may add the following option: "In addition, in all grades gang resistance education and training must be taught."

proper use and display of the American flag, (d) the Pledge of Allegiance, and (e) the voting process.²⁸

9. In all grades, physical education must be taught including a developmentally planned and sequential curriculum that fosters the development of movement skills, enhances health-related fitness, increases students' knowledge, offers direct opportunities to learn how to work cooperatively in a group setting, and encourages healthy habits and attitudes for a healthy lifestyle. Unless otherwise exempted, all students are required to engage in a physical education course with such frequency as determined by the Board after recommendation from the Superintendent,²⁹ but at a minimum of three days per five-day week.³⁰ For exemptions and substitutions, see policies 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students* and 7:260, *Exemption from Physical Education*.³¹
10. In all schools, health education must be stressed, including³²: (a) proper nutrition, (b) physical fitness, (c) components necessary to develop a sound mind in a healthy body, (d)

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²⁸ 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. See also *Palmer v. City of Chicago*, 466 F. Supp. 600 (N.D. Ill. 1979) (teacher would not teach and direct the Pledge of Allegiance to the flag of the United States for religious reasons and was terminated for not doing so because it was part of the curriculum). Requirements for displaying a U.S. flag at each school and in each classroom are found in 5 ILCS 465/3 and 465/3a.

Note that the Illinois statute does not require every student to recite the *Pledge* – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the Pledge, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the *Pledge*. *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943); *Sherman v. Cmty. Consol. Sch. Dist. 21 of Wheeling Twp.*, 980 F.2d 437 (7th Cir. 1992). Consider using permissive rather than mandatory language to introduce the recitation of the *Pledge*, such as, “You may now stand to recite the *Pledge*.” Schools may, of course, require that non-participants maintain order and decorum appropriate to the school environment.

²⁹ The phrase “after recommendation by the Superintendent” is optional. If a superintendent does not bring this topic to the board for discussion, the board may not have a trigger to make the determination.

³⁰ 23 Ill.Admin.Code §1.425(b). Boards that want their daily physical education requirement to align with their goal in policy 6:50, *School Wellness*, may replace “minimum of three days per five-day week” with their local daily requirements. See f/n 10 in [sample](#) policy 6:50, *School Wellness*.

³¹ 105 ILCS 5/27-5 requires school boards to provide for students' physical education and allows the P.E. course offered in grades 5 through 10 to include the health education courses required by State law. See also 23 Ill.Admin.Code §1.425.

105 ILCS 5/27-6, describes when students may be excused from P.E. See also 23 Ill.Admin.Code §1.425(d).

105 ILCS 5/27-6 contains an exception to the minimum of three days per five-day week P.E. requirement for schools engaged in block scheduling; if this is applicable, substitute this sentence for the second-to-last sentence in this paragraph:

Unless otherwise exempted, all students are required to engage with such frequency as determined by the Board, but at a minimum of three days per five-day week, during the school day, except on block scheduled days, in a physical education course.

105 ILCS 5/27-6.5 describes physical fitness assessments required, beginning with the 2016-17 school year and every school year thereafter, for grades 3-12 in an effort to meet State Goal 20 of the Illinois Learning Standards for Physical Development and Health at: www.isbe.net/Pages/School-Health-Issues.aspxwww.isbe.net/Pages/Physical-Education-and-Health.aspx.

See also 23 Ill.Admin.Code §1.425 (fg) and (h); ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers (Rev. 2017)* at:

www.isbe.net/Documents/Physical_Fitness_Assessment_FAQ.pdf#search=Fitness%20Assessments%20and%20Data%20Reporting%20Requirements%20Questions%20and%20Answers

105 ILCS 5/27-7 describes the goals and requirements for P.E. courses; these are re-stated in this sample policy.

³² Citations for letters (a) - (e), required by the Comprehensive Health Education Program (105 ILCS 110/3) in this paragraph follow:

(a) 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7 (proper nutrition) and see also [sample](#) policy 6:50, *School Wellness*.

(b) Id. (physical fitness) and see also [sample](#) policy 6:50, *School Wellness*.

(c) Id. (sound mind and healthy body).

dangers and avoidance of abduction, and (e) age-appropriate and evidence-informed sexual abuse and assault awareness and prevention education in all grades.³³ The Superintendent shall implement a comprehensive health education program in accordance with State law.³⁴

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(d) 105 ILCS 5/27-13.2 (dangers and avoidance of abduction). The Ill. State Police and ISBE must develop instruction on child abduction prevention. 20 ILCS 2605/2605-480.

(e) 105 ILCS 110/3, ~~amended by P.A.s 101-305, 102-464, and 102-1034, eff. 1-1-23,~~ and 105 ILCS 5/10-23.13, amended by P.A. 102-610 a/k/a *Erin's Law* (child sexual abuse prevention). While 105 ILCS 5/10-23.13(b) states pre-K through 12th, this policy uses *all grades* for brevity and ease of administration. *Erin's Law* requires a policy addressing child sexual abuse prevention and curriculum content on that subject (see sample policy 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*). A sentence in 6:60-AP1, *Comprehensive Health Education Program*, restates the basic recommendations from page 16 of the *Erin's Law* Taskforce Final Report (Report) to Governor Quinn at: www.isbe.net/Documents/erins-law-final0512.pdf, which was the basis for ~~P.A. 102-676, HB 1975 text, which did not pass in the first half of the 102nd Ill. General Assembly but is used as the basis for sample content to implement P.A. 102-610 due to that Public Act's vagueness.~~ The professional educator training component of *Erin's Law* is addressed in ~~sample~~ policies 5:90, *Abused and Neglected Child Reporting* and 5:100, *Staff Development Program*. The Report also encouraged parental involvement because parents play a key role in protecting children from child sexual abuse.

³³ See fn 11 in sample policy 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*, for a definition of *evidence-informed*. 105 ILCS 5/10-23.13, amended by P.A. 102-610.

³⁴ 105 ILCS 110/3, amended by P.A.s 101-305, ~~and P.A. 102-464, and 102-1034, eff. 1-1-23;~~ and 23 Ill.Admin.Code §1.420(n). Each school system shall provide a program in compliance with the Critical Health Problems and Comprehensive Health Education Act, 105 ILCS 110/.

More detailed critical health problems and comprehensive health education program content is described in administrative procedure 6:60-API, *Comprehensive Health Education Program*. That procedure follows the Comprehensive Health Education Program law (CHEP), 105 ILCS 110/3, amended by P.A.s 101-305, 102-464, and 102-1034, eff. 1-1-23, and it formerly included the requirements for the development of the now-repealed family life and sex education programs in 105 ILCS 5/27-9.1 and 9.2, amended by P.A.s 100-684, 101-579, 102-412 and repealed by P.A. 102-522.

The former family life and sex education programs were replaced with the National Sex Education Standards (NSES) (105 ILCS 5/27-9.1a, added by P.A. 102-522) and a developmentally appropriate consent education curriculum (105 ILCS 5/27-9.1b, added by P.A. 102-522). ~~But at the time of PRESS Issue 108's publication,~~ the term *family life*, "including evidence-based and medically accurate information regarding sexual abstinence," ~~remained-remains~~ in the CHEP (105 ILCS 110/3, amended by P.A.s 101-305, 102-464, and 102-1034, eff. 1-1-23). The CHEP also includes many other health education topics that all elementary and secondary schools in Illinois must provide, including teen dating violence (105 ILCS 110/3.10, see [sample policy 7:185, Teen Dating Violence Prohibited](#), for the required "teen dating violence policy") and cardiopulmonary resuscitation and automated external defibrillator use. ~~105 ILCS 110/3.-Id.~~ For ease of administration, 6:60-API, *Comprehensive Health Education Program*, content includes reference to the new NSES curriculum that is outlined in more detail at 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*. 105 ILCS 5/27-9.1a, added by P.A. 102-522. ~~While the NSES law is effective immediately,~~ ISBE's ~~has until 8-1-22 to develop its learning standards and resources are available at~~ www.isbe.net/sexualhealth, ~~and at the time of PRESS Issue 108's publication however,~~ no guidance ~~existed-exists~~ about whether districts that provide the now-repealed family life and sex education programs formerly in 105 ILCS 5/27-9.1 and 9.2, repealed by P.A. 102-522, could continue to do so ~~for: (a) their 21-22 school years, and/or (b) continuing into the 22-23 school year and school years beyond that into the future.~~ Consult the board attorney if the district offered the now-repealed family life and sex education program to assess whether that program may continue during ~~the 21-22 school and/or school years beyond~~ [future school years](#).

Two choices exist for school boards related to providing students with a sex education curriculum:

1. No sex education; or
2. NSES a/k/a Comprehensive Personal Health and Safety and Sexual Health Education Program (105 ILCS 5/27-9.1a, added by P.A. 102-522, and see 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*).

While boards are not required to include sex education curriculum information in their policies, if they offer it, the new law requires them to identify the curriculum their districts use along with the name and contact information, including an email address, of a school staff member who can respond to inquiries about instruction and materials. 105 ILCS 5/27-9.1a(e), added by P.A. 102-522. Methods for making this information available include: the district's website, if any, and in the district's offices upon request. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

11. In all schools, career/vocational education must be taught, including: (a) the importance of work, (b) the development of basic skills to enter the world of work and/or continue formal education, (c) good work habits and values, (d) the relationship between learning and work, and (e) if possible, a student work program that provides the student with work experience as an extension of the regular classroom. A career awareness and exploration program must be available at all grade levels. ³⁵
12. In grades 9 through 12, consumer education must be taught, including: (a) financial literacy, including consumer debt and installment purchasing (including credit scoring, managing credit debt, and completing a loan application); budgeting; savings and investing; banking (including balancing a checkbook, opening a deposit account, and the use of interest rates); understanding simple contracts; State and federal income taxes; personal insurance policies; the comparison of prices; higher education student loans; identity-theft security; and homeownership (including the basic process of obtaining a mortgage and the concepts of fixed and adjustable rate mortgages, subprime loans, and predatory lending); and (b) the roles

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For boards that do offer NSES but do not wish to communicate it in this policy, ensure that superintendents: (1) identify the curriculum along with the name and contact information, including an email address of the school staff member designated to respond to inquiries about instruction and materials (see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*); and (2) implement both 6:60-AP1, *Comprehensive Health Education Program*, and 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*.

For boards that want to communicate to their communities in this policy that they offer NSES, insert the following text into the last sentence in number 10:

The Superintendent shall implement a comprehensive health education program in accordance with State law, including a personal health and safety and sexual health education program (National Sex Education Standards) pursuant to 105 ILCS 5/27-9.1a.

Legal Reference insertions are not necessary with the statute in the text of the policy. Ensure: (1) the implementation of both 6:60-AP1, *Comprehensive Health Education Program* and 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*, align with this policy; and (2) that the superintendent identifies the curriculum along with the name and contact information, including an email address of the school staff member designated to respond to inquiries about instruction and materials (see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*).

For boards that communicated NSES in this policy and also want to communicate that they additionally offer developmentally appropriate consent education curriculum, insert the following sentence as the last sentence of the number 10 paragraph:

The Superintendent shall also implement a developmentally appropriate consent education curriculum pursuant to 105 ILCS 5/27-9.1b.

Legal Reference insertion is not necessary with the statute in the text of the policy. Ensure the implementation of 6:60-AP3, *Developmentally Appropriate Consent Education*, aligns with this policy.

For boards that do offer NSES and do not communicate that in policy AND/OR boards that do not offer NSES, but want to communicate that they offer developmentally appropriate consent education curriculum, insert the following text into the last sentence in number 10:

The Superintendent shall implement a comprehensive health education program in accordance with State law, including a developmentally appropriate consent education curriculum pursuant to 105 ILCS 5/27-9.1b.

Legal Reference insertion is not necessary with the statute in the text of the policy. Ensure that implementation of 6:60-AP3, *Developmentally Appropriate Consent Education*, aligns with this policy.

³⁵ 23 Ill.Admin.Code §1.420(i). See 105 ILCS 435/, Vocational Education Act

A unit or high school district may offer workplace preparation instruction in grades 9 through 12 that covers legal protections in the workplace, including protection against sexual harassment and racial and other forms of discrimination and protections for employees. 105 ILCS 5/27-23.14, added by P.A. 101-347 and renumbered by P.A. 102-558.

For high school and unit boards, insert “5/27-23.14,” after 105 ILCS 5/27-23.11 in the Legal References or if a board offers a course on hunting safety as part of its curriculum during the school day (see the option in t/n 52 below), after its Legal Reference 105 ILCS 5/27-23.13, and the following text to the end of number 11 if the board wants to offer workplace preparation instruction:

In grades 9-12, workplace preparation instruction will be offered, covering legal protections in the workplace, including protection against sexual harassment and racial and other forms of discrimination and protections for employees.

of consumers interacting with agriculture, business, labor unions and government in formulating and achieving the goals of the mixed free enterprise system. ^{36 37}

13. Beginning in the fall of 2022, in grades 9 through 12, intensive instruction in computer literacy, which may be included as a part of English, social studies, or any other subject. ³⁸
14. Beginning in the fall of 2022, in grades 9 through 12, a unit of instruction on media literacy that includes, but is not limited to, all of the following topics: (a) accessing information to evaluate multiple media platforms and better understand the general landscape and economics of the platforms, and issues regarding the trustworthiness of the source of information; (b) analyzing and evaluating media messages to deconstruct media representations according to the authors, target audience, techniques, agenda setting, stereotypes, and authenticity to distinguish fact from opinion; (c) creating media to convey a coherent message using multimodal practices to a specific target audience that includes, but is not limited to, writing blogs, composing songs, designing video games, producing podcasts, making videos, or coding a mobile or software application; (d) reflecting on media consumption to assess how media affects the consumption of information and how it triggers emotions and behavior; and (e) social responsibility and civics to suggest a plan of action in the class, school, or community for engaging others in a respectful, thoughtful, and inclusive dialogue over a specific issue using facts and reason. ³⁹
15. Beginning in the fall of 2023, in grades 9 through 12, an opportunity for students to take at least one computer science course aligned to Illinois learning standards. Computer science means the study of computers and algorithms, including their principles, hardware and software designs, implementation, and impact on society. Computer science does not include the study of everyday uses of computers and computer applications; e.g., keyboarding or accessing the Internet. ⁴⁰
16. In all schools, conservation of natural resources must be taught, including: (a) home ecology, (b) endangered species, (c) threats to the environment, and (d) the importance of the environment to life as we know it. ⁴¹

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³⁶ 105 ILCS 5/27-12.1; 23 Ill.Admin.Code §1.420(k). P.A. 99-284 added these subjects to the required consumer education course: consumer debt, higher education student loans, and identity-theft security.

³⁷ For high school and unit boards that want to offer a unit of instruction about the process of naturalization pursuant to 105 ILCS 5/27-23.15~~16~~, added by P.A. 102-472 and renumbered by P.A. 102-813, insert an optional number 13, and amend numbers after it accordingly:

13. In grades 9 through 12, a unit of instruction about the process of naturalization by which a foreign citizen or foreign national becomes a U.S. citizen that includes content from the components of the naturalization test administered by the U.S. Citizenship and Immigration Services.

³⁸ 105 ILCS 5/27-22(e)(3.5), added by P.A. 101-654. ISBE states that *Computer literacy* is broadly defined as one's knowledge of an ability to use computers and related technologies efficiently and effectively. See: www.isbe.net/keeplearning for more ISBE guidance on computer literacy. At the time of PRESS Issue 108's publication, no definition or further information from ISBE existed about what *computer literacy* means. A common sense approach presumes the term includes those concepts carved out of computer science, such as everyday use of computers, keyboarding, accessing the Internet, etc.

³⁹ 105 ILCS 5/27-20.08, added by P.A. 102-55. *Media literacy* means the ability to access, analyze, evaluate, create, and communicate using a variety of objective forms, including, but not limited to, print, visual, audio, interactive, and digital texts.

⁴⁰ Optional until fall 2023; 105 ILCS 5/27-23.15(b), added by P.A. 101-654.

⁴¹ 105 ILCS 5/27-13.1; 23 Ill.Admin.Code §1.420(l).

17. In all schools, United States (U.S.) history must be taught, including: (a) the principles of representative government, (b) the Constitutions of the U.S. and Illinois, (c) the role of the U.S. in world affairs, (d) the role of labor unions, (e) the role and contributions of ethnic groups, including but not limited to, the African Americans, Albanians, Asian Americans, Bohemians, Czechs, French, Germans, Hispanics (including the events related to the forceful removal and illegal deportation of Mexican-American U.S. citizens during the Great Depression), Hungarians, Irish, Italians, Lithuanians, Polish, Russians, Scots, and Slovaks in the history of this country and State, (f) a study of the roles and contributions of lesbian, gay, bisexual, and transgender (LGBT) people in the history of the U.S. and Illinois, (g) Illinois history, and (h) the contributions made to society by Americans of different faith practices, including, but not limited to, Muslim Americans, Jewish Americans, Christian Americans, Hindu Americans, Sikh Americans, Buddhist Americans, and any other collective community of faith that has shaped America. ⁴²

In addition, all schools shall hold an educational program on the United States Constitution on Constitution Day, each September 17, commemorating the September 17, 1787 signing of the Constitution. However, when September 17 falls on a Saturday, Sunday, or holiday, Constitution Day shall be held during the preceding or following week. ⁴³

18. In grade 7 and all high school courses concerning U.S. history or a combination of U.S. history and American government, students must view a Congressional Medal of Honor film made by the Congressional Medal of Honor Foundation, provided there is no cost for the film. ⁴⁴
19. In all schools, the curriculum includes instruction as determined by the Superintendent or designee on the Holocaust and crimes of genocide, including Nazi atrocities of 1933-1945,

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⁴² 105 ILCS 5/27-21, amended by P.A.s 101-227 (adding the roles and contributions of LGBT people in U.S. and Illinois), 101-341 (Illinois history), 101-643 (during a public health emergency, allowing schools to obtain ~~demonstrated~~ evidence from students remotely that they have comprehensive knowledge of United States history), and 102-411 (adding contributions made to society by Americans of different faith practices); 23 Ill.Admin.Code §1.420(r). “[O]btain demonstrated [evidence-Evidence of having comprehensive knowledge [of United States history], which may be administered from students remotely” is not clear. The practical reading is that it refers to teachers collecting evidence through remote assessments when students are engaged in a remote learning program during a disaster declaration due to a public health emergency.

105 ILCS 5/27-21, amended by P.A. 101-643, does not specify at what grade level districts must cover these topics as part of U.S. history instruction; however, no student may graduate from grade 8 unless the student has received instruction in U.S. history and demonstrated comprehensive knowledge of the subject matter.

For guidance about the requirements of adding the roles and contributions of LGBT people in U.S. and Illinois, see:

1. Inclusive Curriculum Law Frequently Asked Questions (FAQs) at: www.phime.org/wp-content/uploads/2020/05/Inclusive-Curriculum-FAQs.pdf;
2. Inclusive Curriculum Law Overview at: www.phime.org/wp-content/uploads/2020/05/Inclusive-Curriculum-One-Pager.pdf; and
3. Inclusive Curriculum Implementation Guidance (Condensed Edition) at: www.isbe.net/Documents/Support-Students-Implementation-Guidance.pdf

⁴³ Section 111 of Division J of Pub. L. 108-447, the Consolidated Appropriations Act, 2005, 12-8-04; 118 Stat. 2809, 3344-45 (Section 111). Section 111(b) states: “[e]ach educational institution that receives Federal funds for a fiscal year shall hold an educational program on the U.S. Constitution on September 17 of such year for the student served by the educational institution.”

⁴⁴ 105 ILCS 5/27-3.5. The Congressional Medal of Honor film is available on ISBE’s website for no cost at: www.isbe.net/Pages/Medal-of-Honor.aspx.

Armenian Genocide, the Famine-Genocide in Ukraine, and more recent atrocities in Cambodia, Bosnia, Rwanda, and Sudan. ⁴⁵

20. In all schools, the curriculum includes instruction as determined by the Superintendent or designee on the history, struggles, and contributions of women. ⁴⁶
21. In all schools, the curriculum includes instruction as determined by the Superintendent or designee on Black History, including the history of the pre-enslavement of Black people from 3,000 BCE to AD 1619, the African slave trade, slavery in America, the study of the reasons why Black people came to be enslaved, the vestiges of slavery in this country, the study of the American civil rights renaissance, as well as the struggles and contributions of African-Americans. ⁴⁷
22. In all schools offering a secondary agricultural education program, the curriculum includes courses as required by 105 ILCS 5/2-3.80. ⁴⁸
23. In all schools, instruction during courses as determined by the Superintendent or designee on disability history, awareness, and the disability rights movement. ⁴⁹
24. Beginning in the fall of 2022, in all schools, instruction as determined by the Superintendent or designee on the events of Asian American history, including the history of Asian Americans in Illinois and the Midwest, as well as the contributions of Asian Americans toward advancing civil rights from the 19th century onward, which must include the contributions made by individual Asian Americans in government and the arts, humanities, and sciences, as well as the contributions of Asian American communities to the economic, cultural, social, and political development of the United States. ⁵⁰

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⁴⁵ 105 ILCS 5/27-20.3. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee.

⁴⁶ 105 ILCS 5/27-20.5. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. House Resolution 365 (98th General Assembly, 2013) and Senate Resolution 1073 (98th General Assembly, 2014) both urge all Illinois educators to share with students of an appropriate age the story of *comfort women* when discussing the history of Asia or World War II, or the issue of human trafficking.

⁴⁷ 105 ILCS 5/27-20.4, amended by P.A. 101-654. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. A school may meet this curriculum requirement through an online program or course. Id.

⁴⁸ 105 ILCS 5/2-3.80(e) or (f), as applicable.

⁴⁹ 105 ILCS 5/27-23.8. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. The statute requires that the instruction be founded on the principle that all students, including students with disabilities, have the right to exercise self-determination. It urges districts to request individuals with disabilities to assist with the development and delivery of this instruction and allows instruction to be supplemented by knowledgeable guest speakers.

⁵⁰ 105 ILCS 5/27-20.8, added by P.A. 102-44. Id. at (c) states that the regional superintendent of schools [or Intermediate Service Center Executive Director, whichever is appropriate] will monitor districts' compliance with this law during the annual compliance review visits. Districts may meet this law's requirements through online programs or courses. Id. at (d). 105 ILCS 5/3-0.01 states any reference to "regional superintendent" include the chief administrative officer of Intermediate Service Centers established under 105 ILCS 5/2-3.62.

25. In kindergarten through grade 8, education must be available to students concerning effective methods of preventing and avoiding traffic injuries related to walking and bicycling. ⁵¹ ⁵²

LEGAL REF.: Pub. L. No. 108-447, Section 111 of Division J, Consolidated Appropriations Act of 2005.
Pub. L. No. 110-385, Title II, 122 stat. 4096 (2008), Protecting Children in the 21st Century Act.
47 C.F.R. §54.520.
5 ILCS 465/3 and 465/3a.
20 ILCS 2605/2605-480.
105 ILCS 5/2-3.80(e) and (f), 5/10-20.~~73-79~~~~(final citation pending)~~, 5/10-23.13, 5/27-3, 5/27-3.5, 5/27-5, 5/27-6, 5/27-6.5, 5/27-7, 5/27-12, 5/27-12.1, 5/27-13.1, 5/27-13.2, 5/27-20.08, 5/27-20.3, 5/27-20.4, 5/27-20.5, 5/27-20.7, 5/27-20.8, 5/27-21, 5/27-22, 5/27-23.3, 5/27-23.4, 5/27-23.7, 5/27-23.8, 5/27-23.10, 5/27-23.11, 5/27-23.15, 5/27-23.16, 5/27-24.1, and 5/27-24.2.
105 ILCS 110/3, Comprehensive Health Education Program.
105 ILCS 435/, Vocational Education Act.
625 ILCS 5/6-408.5, Ill. Vehicle Code.
23 Ill.Admin.Code §§1.420, 1.425, 1.430, and 1.440.

CROSS REF.: 4:165 (Awareness and Prevention of Child Sex Abuse and Grooming Behaviors), 6:20 (School Year Calendar and Day), 6:40 (Curriculum Development), 6:70 (Teaching About Religions), 6:235 (Access to Electronic Networks), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:260 (Exemption from Physical Education)

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⁵¹ 105 ILCS 5/27-23.11 requires districts that maintain any of the grades kindergarten through 8 to adopt a policy. The law is silent about how to educate students on this topic. See 6:60-AP1, E2, *Resources for Biking and Walking Safety Education*, for additional information.

⁵² A school district may offer a course on hunting safety as part of its curriculum during the school day. 105 ILCS 5/27-23.13, added by P.A. 101-152. No grade levels are specified in the statute. Insert “5/27-23.13,” after 105 ILCS 5/27-23.11 in the Legal References, and an optional number 26, if the board wants to offer a course on hunting safety as part of its curriculum:
In grade(s) [*insert grade level(s)*], a course on hunting safety will be offered during the school day.

Instruction

Student Social and Emotional Development ¹

Social and emotional learning (SEL) is defined as the process through which students enhance their ability to integrate thinking, feeling, and behaving to achieve important life tasks. Students competent in SEL are able to recognize and manage their emotions, establish healthy relationships, set positive goals, meet personal and social needs, and make responsible and ethical decisions. ²

The Superintendent shall incorporate SEL into the District's curriculum and other educational programs consistent with the District's mission and the goals and benchmarks of the Ill. Learning Standards.³ The Ill. Learning Standards include three goals for students: ⁴

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

The incorporation of SEL objectives into the District's curriculum and other educational programs may include but is not limited to: ⁵

1. Classroom and school-wide programming to foster a safe, supportive learning environment where students feel respected and valued. This may include incorporating scientifically based, age-and-culturally appropriate classroom instruction, District-wide, and school-wide

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¹ State law requires this subject matter be covered by policy ~~(405 ILCS 49/15(b))~~, and it required districts to submit it to the Ill. State Board of Education (ISBE) once by 8-31-04. [405 ILCS 49/15\(b\)](#).

² This text paraphrases the definition in the Ill. Children's Mental Health Partnership's *Strategic Plan for Building a Comprehensive Children's Mental Health System* in Illinois, pg. 73, Appendix C, starting at pg. 69 at: www.nashp.org/wp-content/uploads/sites/default/files/abcd/abcd.il.icmhpstrategic20050908.pdf

³ Required by the Children's Mental Health Act ~~of 2003~~, 405 ILCS 49/, amended by P.A. 102-899, eff. 1-1-23. ISBE incorporated social and emotional development standards into the Ill. Learning Standards. For more information see: www.isbe.net/sc/learn/social-emotional-learning-standards.aspx. School social workers may implement a continuum of social and emotional education programs and services in accordance with students' needs. 405 ILCS 49/15(b).

105 ILCS 5/2-3.147, added by P.A. 95-558 and repealed by P.A. 99-30, created the Ensuring Success in School Task Force. Supervised by ISBE, this task force developed policies, procedures, and protocols for school boards to adopt to address the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence; the goal is to encourage these students to stay in school, stay safe while in school, and successfully complete their education. School boards and superintendents may want to create their own study group to prepare for implementing of the task force's policies, procedures, and protocols. A report of the task force's findings was made to the General Assembly and is available here: www.isbe.net/Documents/ess-task-force-final-report0610.pdf www.povertylaw.org/advocacy/women/pubs/essa-task-force-report.

⁴ The goals, along with their benchmarks, performance descriptors and indicators are available at the link in f/n 3, above.

⁵ The objectives are a matter of local school board discretion. A board may replace the sample objectives with its own local objectives. This sample policy lists the ISBE's SEL goals found on ISBE's website cited in f/n 3, above.

strategies that teach SEL skills, promote optimal mental health, and prevent risk behaviors for all students. ⁶

2. Staff development and training to promote students' SEL development. This may include providing all personnel with age-appropriate academic and SEL and how to promote it. ⁷
3. Parent/Guardian and family involvement to promote students' SEL development. This may include providing parents/guardians and families with learning opportunities related to the importance of their children's optimal SEL development and ways to enhance it. ⁸
4. Community partnerships to promote students' SEL development. This may include establishing partnerships with diverse community agencies and organizations to assure a coordinated approach to addressing children's mental health and SEL development.
5. Early identification and intervention to enhance students' school readiness, academic success, and use of good citizenship skills. This may include development of a system and procedures for periodic and universal screening, assessment, and early intervention for students who have significant risk factors for social, emotional, or mental health conditions that impact learning. ⁹
6. Treatment to prevent or minimize mental health conditions in students. This may include building and strengthening referral and follow-up procedures for providing effective clinical services for students with social, emotional, and mental health conditions¹⁰ that impact learning. This may include student and family support services, school-based behavioral health services, and school-community linked services and supports.
7. Assessment and accountability for teaching SEL skills to all students. This may include implementation of a process to assess and report baseline information and ongoing progress about school climate, students' social and emotional development, and academic performance. ¹¹

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⁶ 20 ILCS 1705/76, added by P.A. 101-45, ~~eff. 1-1-20~~, requires the Ill. Dept. of Public Health to create and maintain an online *Mental Health Database and Resource* page on its website with mental health resources to: (1) assist school social workers, school counselors, parents, teachers, and school support personnel with the goal of connecting them with mental health resources related to bullying and school shootings; and (2) encourage information sharing among educational administrators, school security personnel, and school resource officers. See the database at: www.dhs.state.il.us/page.aspx?item=118331 ~~www.dhs.state.il.us~~.

⁷ See SEL resources to support instruction of the Ill. Learning Standards at: <https://ilclassroomtech.weebly.com/social-emotional-learning.html> ~~www.ilclassroomsinaction.org/~~.

⁸ The Ill. Children's Mental Health Partnership provides family resources at: www.icmhp.org/resources/media-library/ ~~www.icmhp.org/icmhp-help-guide/family-resources/online-resources-for-parents-and-caregivers/~~.

⁹ ~~The Ill. Children's Mental Health Partnership provides i~~Information about Early Childhood Mental Health Consultation ~~is available~~ at: www.iecmhc.org/.

¹⁰ 305 ILCS 5/5-5.23(g), added by P.A. 101-461, ~~eff. 1-1-20~~, created the *Family Support Program* (FSP) in the Dept. of Healthcare and Family Services. FSP is a restructure of the former Individual Care Grant program. Its purpose is to enable early treatment of youth, emerging adults, and transition-age adults with a serious mental illness or serious emotional disturbance. Eligibility criterion for FSP are established at 89 Ill. Adm. Code Part 139.

¹¹ For information on this objective, see ISBE's Comprehensive System of Learning Supports at: www.isbe.net/Pages/Learning-Supports.aspx.

Information about school climate is available from ISBE at: www.isbe.net/Pages/School-Climate.aspx.

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

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

DRAFT

Instruction

English Learners ¹

The District offers opportunities for resident English Learners to achieve at high levels in academic subjects and to meet the same challenging State academic standards that all children are expected to meet. The Superintendent or designee shall develop and maintain a program for English Learners that will:

1. Assist all English Learners to achieve English proficiency, facilitate effective communication in English, and encourage their full participation in school activities and programs as well as promote participation by the parents/guardians of English Learners. ²

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¹ State or federal law controls this policy's content. The assessment and accountability provisions in the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act, and State law include English Learners. 20 U.S.C. §§6312, 6314, 6315, and 6318; ~~Note: Applicable regulations at 34 C.F.R. Part 200 have not been updated; amendments to the regulations are highly likely within the next year.~~ 34 C.F.R. Part 200.

ESEA Title III, Part A, also known as the English Language Acquisition, Language Enhancement, and Academic Achievement Act, provides funding to support schools' efforts to help children who are English learners "achieve at high levels in academic subjects so that all English learners can meet the same challenging State academic standards that all children are expected to meet." 20 U.S.C. §6812(2). Reimbursement for programs is contingent on the submission and approval of a program plan and request for reimbursement in accordance with the requirements in 105 ILCS 5/14C-12 and 23 Ill.Admin.Code Part 228. This policy uses *English Learners* (EL) rather than *English Language Learners* (ELL) or *Limited English Proficient* (LEP). LEP and ELL are no longer terms used generally among educators and researchers in the field of English language acquisition. 37 Ill. Reg. 16804. The Ill. State Board of Education (ISBE) now uses the term *English learners*, which are synonymous with LEP and ELL. P.A. 99-30 also deleted *language* from "English language learner."

For purposes of this policy, *English Learners* is synonymous with the School Code definition, which means: (1) all students in grades Pre-K through 12 who were not born in the United States, whose native tongue is a language other than English, and who are incapable of performing ordinary classwork in English; and (2) all students in grades Pre-K through 12 who were born in the United States of parents possessing no or limited English-speaking ability and who are incapable of performing ordinary classwork in English. 105 ILCS 5/14C-2. ~~Note: The Ill. Administrative Code definition of *English Learners* has not been amended since the effective date of P.A. 99-30 and~~ still provides that *English Learners* means any student in preschool, kindergarten or any of grades 1 through 12, whose home language background is a language other than English and whose proficiency in speaking, reading, writing, or understanding English is not yet sufficient to provide the student with: (1) the ability to meet the State's proficient~~ey~~ level of achievement on State assessments; (2) the ability to successfully achieve in classrooms where the language of instruction is English, or (3) the opportunity to participate fully in the school setting. 23 Ill.Admin.Code §228.10.

The Office for Civil Rights (OCR) at the U.S. Dept. of Education (DOE) and the Civil Rights Division at the U.S. Dept. of Justice (DOJ) have issued joint guidance to assist school districts and all public schools in meeting their legal obligations to ensure that English Learners can participate meaningfully and equally in educational programs and services. The guidance is available at: www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf (copy and paste link into browser if clicking doesn't work). In support of this guidance, the Office of English Language Acquisition released an *English Learner (EL) Tool Kit* to assist school districts in providing EL students with the support necessary to achieve their full academic potential. The *Tool Kit* is available at: www2.ed.gov/about/offices/list/oela/english-learner-toolkit/index.html.

² This policy's first sentence and the first numbered paragraph both allow a school board to consider the goals for its English Learners programs; a board should amend the sample policy accordingly.

2. Appropriately identify students with limited English language proficiency. ³
3. Comply with State law regarding the Transitional Bilingual Educational Program (TBE) or Transitional Program of Instruction (TPI), whichever is applicable. ⁴
4. Comply with any applicable State and federal requirements for the receipt of grant money for English Learners and programs to serve them. ⁵
5. Determine the appropriate instructional program and environment for English Learners. ⁶
6. Annually assess the English proficiency of English Learners and monitor their progress in order to determine their readiness for a mainstream classroom environment. ⁷
7. Include English Learners, to the extent required by State and federal law, in the District's student assessment program to measure their achievement in reading/language arts and mathematics. ⁸
8. Provide information to the parents/guardians of English Learners about: (a) the reasons for their child's identification, (b) their child's level of English proficiency, (c) the method of instruction to be used, (d) how the program will meet their child's needs, (e) how the program will specifically help their child learn English and meet age-appropriate academic achievement standards for grade promotion and graduation, (f) specific exit requirements of the program, (g) how the program will meet their child's individualized education program, if applicable, and (h) information on parent/guardian rights. Parents/guardians will be regularly apprised of their child's progress and involvement will be encouraged. ⁹

Parent Involvement ¹⁰

Parents/guardians of English Learners will be informed how they can: (1) be involved in the education of their children; (2) be active participants in assisting their children to attain English proficiency, achieve at high levels within a well-rounded education, and meet the challenging State academic

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³ 23 Ill.Admin.Code §228.15. Districts must administer a home language survey to each student entering the district's schools for the first time within 30 days after the student's enrollment. The survey's purpose is to identify students of non-English background. ISBE's website contains useful information about communicating with parents/guardians of English Learners (www.isbe.net/Pages/Resources-for-Families-of-English-Learners.aspx), including sample Home Language Surveys and program letters in many languages (www.isbe.net/Pages/Screening-for-English-Language-Proficiency.aspx www.isbe.net/Pages/English-Learners-Forms-and-Notifications.aspx).

For purposes of identifying students eligible to receive special education, districts must administer non-discriminatory procedures to English Learners coming from homes in which a language other than English is used. (105 ILCS 5/14-8.02).

⁴ 105 ILCS 5/14C-3, and 23 Ill.Admin.Code §§228.25, and 228.30.

⁵ 20 U.S.C. §§6312, 6314, 6315, 6318, and 6801 *et seq.*; 34 C.F.R. Part 200; 105 ILCS 5/14C-1 *et seq.*; and 23 Ill.Admin.Code Part 228.

⁶ 23 Ill.Admin.Code §228.25.

⁷ 23 Ill.Admin.Code §228.25(b). Districts must annually assess the English language proficiency of all English learners using the assessment prescribed by the State Superintendent of Education. This assessment is the Assessing Comprehension and Communication in English State to State for English Language Learners (ACCESS for ELLs) test. See www.isbe.net/Pages/AccessforELL.aspx

⁸ 34 C.F.R. Part 200.

⁹ 20 U.S.C. §6312(e)(3)(A) and 23 Ill.Admin.Code §228.40.

¹⁰ 20 U.S.C. §6312(e)(3)(C) and 23 Ill.Admin.Code Part 228. 105 ILCS 5/14C-10 requires school districts to establish parental advisory committees for transitional bilingual education programs. See 2:150-AP, *Superintendent Committees*.

standards expected of all students; and (3) participate and serve on the District's Transitional Bilingual Education Programs Parent Advisory Committee.

LEGAL REF.: 20 U.S.C. §§6312, 6314, 6315, and 6318.
20 U.S.C. §6801 et seq.
34 C.F.R. Part 200.
105 ILCS 5/14C-1 et seq.
23 Ill.Admin.Code Part 228.

CROSS REF.: 6:15 (School Accountability), 6:170 (Title I Programs), 6:340 (Student Testing and Assessment Program)

DRAFT

Instruction

Bring Your Own Technology (BYOT) Program: Responsible Use and Conduct¹

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

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

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¹ This policy is optional. It concerns an area in which the law is unsettled. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. Consult the board attorney and the district’s information technology professional(s) for advice to create a legally sound program that fits your district’s mission statement for instruction.

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

³ 105 ILCS 5/27-13.3 and 47 C.F.R. §54.520(c)(1)(i) require Internet safety instruction. See f/n 24 in 6:60, *Curriculum Content* for more discussion.

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

⁵ Care must be taken to comply with the Children’s Internet Protection Act (CIPA) (47 U.S.C. §254). CIPA requires the district to provide content filters, blocking lists, or district monitoring of Internet website traffic for patterns of usage that could indicate inappropriate network usage. While a program using district-owned technology devices is always subject to the district’s electronic network rules, a BYOT program creates the possibility for students to bypass the district’s electronic network and access the Internet through their own wireless providers’ signals. This *bypass* complicates a district’s duty under CIPA because it cannot guarantee students use its electronic network; preventing bypassing is hard for school officials to control.

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

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

Prevention of and Response to Bullying, Intimidation, and Harassment; 7:190, *Student Behavior*; 7:340, *Student Records*; and 7:345, *Use of Educational Technologies; Student Data Privacy and Security*.⁶

6. Provide relevant staff members with BYOT professional development opportunities, including the provision of:⁷
 - a. Classroom management information about issues associated with the program, e.g., technical support, responsible use, etc.;
 - b. A copy of or access to this policy and any building-specific rules for the program;

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

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

1. 4:140, *Waiver of Student Fees*, needs examination because most BYOT programs require parents/guardians to spend funds to participate. 105 ILCS 5/10-20.13, amended by P.A.s 102-1032 and 102-805, eff. 1-1-23, requires districts, at a minimum, to waive charges for textbooks and other fees for children whose families are unable to afford them. See also policy 6:210, *Instructional Materials*, stating that district classrooms and learning centers should be equipped with an evenly-proportioned, wide assortment of instructional materials, including textbooks, workbooks, audio-visual materials, and electronic materials.
2. Management issues concerning 5:125, *Personal Technology and Social Media; Usage and Conduct*, and 5:170, *Copyright* are discussed in f/ns 7 and 8 below.
3. 6:120, *Education of Children with Disabilities*, requires consideration for students with disabilities when integrating any technology programs into the educational environment. As with district-provided devices (often referred to as *1:1 technology programs*), devices must be accessible to students with disabilities, including those who are blind, have low vision or have a disability that affects their ability to access print information. The use of mobile devices that do not allow a student with a disability to access the instructional materials would be a violation of the student’s right under the Individuals With Disabilities Education Act (IDEA) (20 U.S.C. §1400 et seq.).
4. 6:235, *Access to Electronic Networks*, is discussed in f/n 5 above.
5. 7:140, *Search and Seizure*, still applies in a BYOT program. The Fourth Amendment protects individuals from searches only when the person has a legitimate expectation of privacy. However, 105 ILCS 5/10-22.6(e) allows school officials to inspect the personal effects left by a student on property owned or controlled by the school, e.g., lockers, desks, and parking lots. Many cases suggest that to search a student’s possessions left in the locker, school officials need individualized suspicion of wrongdoing. Many of the issues re: the search of electronic devices that are discussed in 7:190-AP6, *Guidelines for Investigating Sexting Allegations*, will apply to investigations involving BYOT devices. To minimize mediating with law enforcement for parents/guardians about confiscated devices, districts should distinguish whether they are acting upon their own initiative or need to contact law enforcement. See f/ns in policy 7:140, *Search and Seizure*, and the policy’s **Seizure of Property** subhead.
6. 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, and 7:190, *Student Behavior*, present similar issues to #3 and #4 above. Students must be aware that traditional expectations for appropriate behavior, and the consequences for inappropriate behavior, apply to a BYOT program.
7. See 7:340, *Student Records*. The law is not clear whether materials created by students participating in a BYOT program through a district’s network access are *school student records*.
8. 7:345, *Use of Educational Technologies; Student Data Privacy and Security*, requires districts to comply with the Student Online Personal Protection Act (SOPPA), 105 ILCS 85/, amended by P.A. 101-516; see also 23 Ill.Admin.Code Part 380. Implementation of a BYOT program does not exempt a district from complying with SOPPA’s contractual and security mandates, including implementation and maintenance of reasonable security procedures and practices designed to protect student’s *covered information*. Reasonable security practice guidance adopted by ISBE recommends, in part, that districts create a separate wireless network for personal or untrusted devices. See 7:345 at f/n 11 for more information.

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

- c. Additional training, if necessary, about 5:170, *Copyright*; and
 - d. Information concerning appropriate behavior of staff members as required by State law and policy 5:120, *Employee Ethics*; [Code of Professional Conduct](#); and *Conflict of Interest*.⁸
7. Provide a method to inform parents/guardians and students about this policy.
 8. Include the program in the annual report to the Board as required under policy 6:10, *Education Philosophy and Objectives*.

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

Responsible Use⁹

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

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

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⁸ 23 Ill.Admin.Code §22.20 and 105 ILCS 5/21B-75, amended by P.A. 102-552.

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

LEGAL REF.: 15 U.S.C. §§6501-6508, Children’s Online Privacy Protection Act; ~~implemented~~
by 16 C.F.R. Part 312, Children’s Online Privacy Protection Rule.
20 U.S.C §6751 et seq., Enhancing Education Through Technology Act.
47 U.S.C. §254(h) and (l), Children’s Internet Protection Act.
47 C.F.R. Part 54, Subpart F, Universal Service Support for Schools and Libraries.
105 ILCS 5/10-20.28.

CROSS REF.: 1:30 (School District Philosophy), 4:140 (Waiver of Student Fees), 5:120
(Employee Ethics; [Code of Professional](#) Conduct; and Conflict of Interest), 5:125
(Personal Technology and Social Media; Usage and Conduct), 5:170
(Copyright), 6:10 (Educational Philosophy and Objectives), 6:40 (Curriculum
Development), 6:120 (Education of Children with Disabilities), 6:210
(Instructional Materials), 6:235 (Access to Electronic Networks), 7:140 (Search
and Seizure), 7:180 (Prevention of and Response to Bullying, Intimidation, and
Harassment), 7:190 (Student Behavior), 7:340 (Student Records)

DRAFT

Instruction

Community Resource Persons and Volunteers ¹

The School Board encourages the use of resource persons and volunteers to: (1) increase students' educational attainment; (2) provide enrichment experiences for students; (3) increase the effective utilization of staff time and skills; (4) give more individual attention to students; and (5) promote greater community involvement.

Resource persons and volunteers may be used: ²

1. For non-teaching duties not requiring instructional judgment or evaluation of students; ³
2. For supervising study halls, long distance teaching reception areas used incident to instructional programs transmitted by electronic media (such as computers, video, and audio), detention and discipline areas, and school-sponsored extracurricular activities; ⁴
3. To assist with academic programs under a ~~certificated~~-licensed teacher's immediate supervision; ⁵
4. To assist in times of violence or other traumatic incidents within the District by providing crisis intervention services to lessen the effects of emotional trauma on staff, students, and the community, provided the volunteer meets the qualifications established by the Ill. School Crisis Assistance Team Steering Committee; ⁶
5. As a guest lecturer or resource person under a ~~certificated~~-licensed teacher's direction and with the administration's approval; or ⁷
6. As supervisors, chaperones, or sponsors for non-academic school activities. ⁸

The Superintendent shall follow Board policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*, to establish procedures for securing and screening resource persons and volunteers.⁹ A person who is a *sex offender*, as defined by the Sex Offender Registration Act, or a *violent offender against youth*, as defined in the Murderer and Violent Offender Against Youth Registration Act, is prohibited from being a resource person or volunteer.¹⁰ All volunteer coaches must comply with the requirement to report hazing in policy 5:90, *Abused and Neglected Child Reporting*.¹¹

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

¹ State or federal law controls this policy's content.

² How volunteers are used should be determined locally.

³ 105 ILCS 5/10-22.34(a)(1).

⁴ 105 ILCS 5/10-22.34(a)(2).

⁵ 105 ILCS 5/10-22.34(b), [amended by P.A. 102-894](#).

⁶ *Id.*

⁷ 105 ILCS 5/10-22.34b, [amended by P.A. 102-894](#), last paragraph.

⁸ 105 ILCS 5/10-22.34a, [amended by P.A. 102-894](#).

⁹ The law is silent with regard to screening volunteers and individuals in the proximity of a school. *Screening and fingerprint-based criminal history records checks* are different. See procedure 4:175-AP1, *Criminal Offender Notification Laws; Screening*, for further distinctions.

¹⁰ Sex Offender Registration Act, 730 ILCS 150/; Sex Offender Community Notification Law, 730 ILCS 152/; Murderer and Violent Offender Against Youth Registration Act, 730 ILCS 154/; Murderer and Violent Offender Against Youth Community Notification Law, 730 ILCS 154/75.

- LEGAL REF.: 105 ILCS 5/10-22.34, 5/10-22.34a, and 5/10-22.34b.
720 ILCS 5/12C-50.1, Failure to Report Hazing.
730 ILCS 150/1 et seq., Sex Offender Registration Act.
730 ILCS 152/101 et seq., Sex Offender Community Notification Law.
730 ILCS 154/75 et seq., Murderer and Violent Offender Against Youth
Community Notification Law.
730 ILCS 154/101 et seq., Murderer and Violent Offender Against Youth
Registration Act.
- CROSS REF.: 4:170 (Safety), 4:175 (Convicted Child Sex Offender; Screening; Notifications),
5:90 (Abused and Neglected Child Reporting), 5:280 (Duties and Qualifications),
8:30 (Visitors to and Conduct on School Property), 8:95 (Parental Involvement)

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This paragraph exceeds the requirements in State law but reflects best practice. There is no statutory screening requirement, and the only legal restriction is the statute prohibiting a child sex offender from being present on school property, or loitering within 500 feet of school property, when persons under the age of 18 are present unless specifically permitted by statute. 720 ILCS 5/11-9.3. However, two databases provide an easy way for schools to screen for sex offenders and violent offenders against youth, i.e.: the Ill. Sex Offender Registry, <https://isp.illinois.gov/Sor/Disclaimer> ~~www.isp.state.il.us/sor~~ and the Violent Offenders Against Youth Database maintained by the State Police, <https://isp.illinois.gov/MVOAY/Disclaimer> ~~www.isp.state.il.us/emvo/~~. See Murderer and Violent Offender Against Youth Community Notification Law, 730 ILCS 154/75-105; Sex Offender Community Notification Law, 730 ILCS 152/101 et seq. The sample administrative procedures 4:170-AP1, *Comprehensive Safety and Security Plan*, and 6:250-AP, *Securing and Screening Resource Persons and Volunteers*, provide guidance for the superintendent to develop a screening process as required by this policy. This alternative paragraph goes further by forbidding the use of any convicted felon:

The Superintendent shall establish procedures for securing and screening resource persons and volunteers. A person who is a *sex offender*, as defined by the Sex Offender Registration Act, or a *violent offender against youth*, as defined in the Murderer and Violent Offender Against Youth Registration Act, or has otherwise been convicted of a felony, is prohibited from being a resource person or volunteer.

The following alternative paragraph reflects the minimum requirement of State law:

A person who is a *child sex offender*, as defined by the Criminal Code of 2012, is prohibited from being a resource person or volunteer.

¹¹ 720 ILCS 5/12C-50.1.

Instruction

Assemblies and Ceremonies ¹

Assemblies must be approved by the Superintendent or designee and be consistent with the District's educational objectives.

While the District respects an individual's brief, quiet, personal religious observance(s), it shall not endorse or otherwise promote invocations, benedictions, and group prayers at any school assembly, ceremony, or other school-sponsored activity. ²

LEGAL REF.: Lee v. Weisman, 505 U.S. 577 (1992).
Santa Fe Independent Sch. Dist. v. Doe, 530 U.S. 290 (2000).
Kennedy v. Bremerton Sch. Dist., 142 S.Ct. 2407 (2022).
Jones v. Clear Creek Independent Sch. Dist., 930 F.2d 416 (5th Cir. 1991), *cert. granted, judgement vacated*, 505 U.S. 1215 (1992), *remand*, 977 F.2d 963, *reh'g denied*, 983 F.2d 234 (5th Cir. 1992), and *cert. denied*, 508 U.S. 967 (1993).

CROSS REF.: 6:70 (Teaching About Religion), 6:80 (Teaching About Controversial Issues)

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

¹ State or federal law controls this policy's content.

² School-sponsored prayers or invocations at athletic events, graduation, and performances violate the First Amendment to the U.S. Constitution. Lee v. Weisman, 505 U.S. 577 (1992). Even permitting students to deliver a "brief invocation and/or message" as part of pre-game ceremonies at football games is unconstitutional when the district retains control of the message's content. Santa Fe Independent Sch. Dist. v. Doe, 530 U.S. 290 (2000), and Workman v. Greenwood Cmty. Sch. Corp., 2010 WL 1780043 (S.D.Ind. 2010). Compare with Kennedy v. Bremerton Sch. Dist., 142 S.Ct. 2407 (2022), where the Supreme Court held that a football coach had a right to pray on the 50-yard line after games, even though still on duty, because he was engaged in a "brief, quiet, personal religious observance doubly protected by the Free Exercise and Free Speech Clauses of the First Amendment." *Id.* at 2433. Consult the board attorney if considering a policy or practice of prohibiting employees from engaging in private prayer in the presence of students.

Using a student-led message to solemnize a school event is problematic, especially when the student-led message was historically a prayer or when the purpose is to solemnize an athletic event as opposed to an event like graduation. However, the Supreme Court denied review of the Fifth Circuit Court of Appeals decision affirming a school board's policy that allowed nonsectarian and nonproselytizing student-led prayer during graduation ceremonies. Jones v. Clear Creek Independent Sch. Dist., 508 U.S. 967 (1993), *cert. denied*. In that case, high school seniors were permitted to choose student volunteers to deliver nonsectarian, nonproselytizing invocation at graduation ceremonies. The following is the policy upheld in that case:

1. The use of an invocation and/or benediction at the high school graduation exercise shall rest within the discretion of the graduating senior class, with the advice and counsel of the senior class principal [class sponsor];
2. The invocation and benediction, if used, shall be given by a student volunteer; and
3. Consistent with the principle of equal liberty of conscience, the invocation and benediction shall be nonsectarian and nonproselytizing in nature.

A board should consult its attorney before adopting such a policy.

Instruction

Complaints About Curriculum, Instructional Materials, and Programs

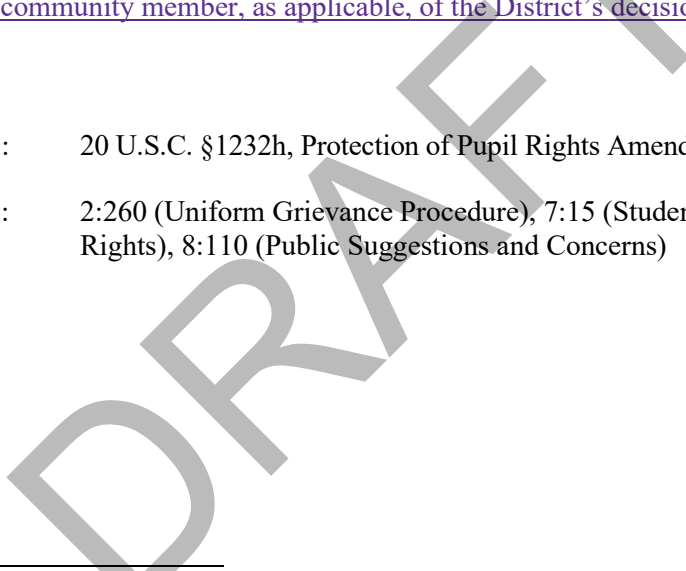
Parents/guardians have the right to inspect any instructional material used as part of their child’s educational curriculum pursuant to School Board policy 7:15, *Student and Family Privacy Rights*. ¹

~~Persons~~Parents/guardians, employees, and community members who believe that curriculum, instructional materials, or programs violate rights guaranteed by any law or Board policy ~~should~~may file a complaint using Board policy 2:260, *Uniform Grievance Procedure*. ²

~~Persons~~Parents/guardians, employees, and community members with ~~all~~ other suggestions or complaints about curriculum, instructional materials, or programs should complete a *Curriculum Objection Form*. A parent/guardian may request that his/her child be exempt from using a particular instructional material or program by completing a *Curriculum Objection Form*. The Superintendent or designee shall establish criteria for the review of objections and inform the parent/guardian, employee, or community member, as applicable, of the District’s decision. ³

LEGAL REF.: 20 U.S.C. §1232h, Protection of Pupil Rights Amendment.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 7:15 (Student and Family Privacy Rights), 8:110 (Public Suggestions and Concerns)



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¹ 20 U.S.C. §1232h(c)(1)(C)(i).

² Limiting the scope of complainants in this policy to parents/guardians, employees, and community members aligns with sample policy 2:260, *Uniform Grievance Procedure*.

³ The last sentence of this paragraph is optional. It strengthens the policy’s connection to IASB’s *Foundational Principles of Effective Governance*. See www.iasb.com/conference-training-and-events/training/training-resources/foundational-principles-of-effective-governance. For criteria that can be used in reviewing curriculum objections, see sample administrative procedure, 6:260-AP, *Responding to Complaints About Curriculum, Instructional Materials, and Programs*.

A school district is not required to automatically accommodate a student’s or his/her parents’ religious beliefs by allowing the student to opt out of reading required materials or programs. A student is entitled to accommodation only if a district’s requirement *burdens* his/her free exercise of religion and the requirement is not justified by a *compelling state interest*. *Mozert v. Hawkins Co. Bd. of Educ.*, 827 F.2d 1058 (6th Cir. 1987). A student’s free exercise right would unlikely be burdened by compelling the student to be exposed to ideas with which his/her religion disagrees. See *Fleischfresser v. Directors of Sch. Dist. 200*, 15 F.3d 680 (7th Cir. 1994). On the other hand, compelling a student to perform an act that violates the student’s religious beliefs would burden his/her free exercise right, and the school district would need to justify the requirement with a compelling state interest in order to be able to enforce it.

Instruction

Guidance and Counseling Program ¹

The School District provides a guidance and counseling program for students. ² The Superintendent or designee shall direct the District's guidance and counseling program. School counseling services, as described by State law, may be performed by a qualified guidance specialist or any certificated staff member. ³

[For Elementary and Unit Districts]

Each staff member is responsible for effectively guiding students under his/her supervision in order to provide early identification of intellectual, emotional, social, or physical needs, diagnosis of any learning disabilities, and development of educational potential. The District's counselors shall offer counseling to those students who require additional assistance.

[For High School and Unit Districts]

The guidance program will assist students to identify career options consistent with their abilities, interests, and personal values. Students shall be encouraged to seek the help of counselors to develop specific curriculum goals that conform to the student's career objectives. High school juniors and seniors will have the opportunity to receive career-oriented information. Representatives from colleges and universities, occupational training institutions and career-oriented recruiters, including

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¹ State or federal law controls this policy's content.

² School boards may employ counselors 105 ILCS 5/10-22.24a, ~~amended by P.A. 102-894~~, 105 ILCS 5/10-22.24b, amended by P.A.s 101-290 ~~and 102-876, eff. 1-1-23~~, provides an ~~extensive but~~ non-exhaustive list of ~~54~~ school counseling services, including counseling services for students in need of special education services or who have a federal Section 504 plan and discussion of all post-secondary education options, including four-year colleges or universities, community colleges, and vocational schools.

~~A program to assist educationally disadvantaged children may include special guidance and counseling. 105 ILCS 5/14B-2.~~ All districts must conduct a comprehensive needs assessment to determine the scope of pupil needs in the areas of guidance and counseling, psychological, social work, and health. 23 Ill.Admin.Code §1.420(q).

The Children's Mental Health Act ~~of 2003~~ requires districts to develop protocols for responding to students with social, emotional, or mental health needs that impact learning. 405 ILCS 49/, ~~amended by P.A. 102-899, eff. 1-1-23~~. ~~105 ILCS 5/2-3-142P.A. 95-558~~ created the Ensuring Success in School Task Force. ~~This task force that~~ developed policies, procedures, and protocols for school boards to adopt for the purpose of addressing the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence to ensure their ability to stay in school, stay safe while in school, and successfully complete their education. ~~See f/n 3 in sample policy 6:65, Student Social and Emotional Development, for further information. School boards and superintendents may want to create their own study group to prepare for implementing the task force's policies, procedures, and protocols.~~ See policy 7:250, *Student Support Services*, and administrative procedure 7:250-AP2, *Protocol for Responding to Students with Social, Emotional, or Mental Health Needs*.

³ Optional. 105 ILCS 5/10-22.24b, ~~amended by P.A.s 101-290 and 102-876, eff. 1-1-23~~, provides that any qualified professional, including other ~~certificated~~ endorsed school support personnel, may provide school counseling services. The following optional sentence recognizes the importance of interventions; however, it creates duties that are not present in law. This is a classic "who, gets what, for how much" issue.

The counseling program will assist students with interventions related to academic, social and/or personal issues. Students shall be encouraged to seek academic, social, and/or personal assistance.

the military, may be given access to the school campus in order to provide students and parents/guardians with information. ⁴

LEGAL REF.: 105 ILCS 5/10-22.24a and 5/10-22.24b.
23 Ill.Admin.Code §1.420(q).

CROSS REF.: 6:50 (School Wellness), 6:65 (Student Social and Emotional Development), 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 6:120 (Education of Children with Disabilities), 6:130 (Program for the Gifted), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:250 (Student Support Services), 7:290 (Suicide and Depression Awareness and Prevention)

ADMIN. PROC.: 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)

DRAFT

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⁴ A district must provide military recruiters access to students if it has provided such access to persons or groups who tell students about educational or occupational opportunities. 105 ILCS 5/10-20.5a. The Ill. State Board of Education issued a *Military ~~Access~~—Recruitment#_Access Reminder* memo, available at: www.isbe.net/Documents/Military-Access-Reminder.pdf.

Federal law requires a secondary school to grant military recruiters and institutions of high learning, upon their request, access to secondary school students' names, addresses, and telephone numbers, unless the parents/guardians request that the information not be disclosed without prior written consent. 20 U.S.C. §7908. See also 7:340-AP1, *School Student Records*, and 7:340-AP1, E1, *Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records*.

Instruction

Grading and Promotion ¹

The Superintendent or designee shall establish a system of grading and reporting academic achievement to students and their parents/guardians.² The system shall also determine when promotion and graduation requirements are met. The decision to promote a student to the next grade level shall be based on successful completion of the curriculum, attendance, and performance on the standardized tests required by the Ill. State Board of Education (ISBE) and/or other assessments.³ A student shall not be promoted based upon age or any other social reason not related to academic performance.⁴ The administration shall determine remedial assistance for a student who is not promoted.⁵

Every teacher shall maintain an evaluation record for each student in the teacher's classroom. A District administrator cannot change the final grade assigned by the teacher without notifying the teacher.⁶ Reasons for changing a student's final grade include:

- A miscalculation of test scores,

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¹ State law requires districts to have a school board policy containing the reasons for which a grade may be changed and prohibiting social promotion. 105 ILCS 5/10-20.9a. State law controls this policy's content.

If a district uses weighted grades for classes by degree of difficulty, it must be reflected in the affected students' class ranking and permanent records. 105 ILCS 5/27-27.

² Absent a court order to the contrary, upon the request of either parent of a student whose parents are divorced, copies of report cards, along with other notices and records, must be furnished to both parents by the district. 105 ILCS 5/10-21.8.

³ 105 ILCS 5/10-20.9a. Each board may determine its own promotion criteria and augment the statute's criteria. [105 ILCS 5/10-20.9a\(c\) and \(d\), added by P.A. 102-727, and inoperative "on and after three years" from 5-6-22, prohibits public high schools from withholding a student's grades, transcripts, or diploma because of an unpaid balance on the student's school account. Given potential different interpretations, the exact date on which this law expires is unclear; consult the board attorney for guidance on this issue. See also 105 ILCS 5/28-19.2, which prohibits student punishment of any kind, including the lowering of grades, if a parent/guardian is unable to pay school fees.](#)

105 ILCS 5/2-3.64 contained the State assessment program until it was repealed by P.A. 98-972.

105 ILCS 5/2-3.64a-5(b) requires ISBE to "establish the academic standards that are to be applicable to students who are subject to State assessments." It contains the schedule for assessing students by calendar year and grade. ISBE selects standardized tests for the State assessment and accountability measure. In House Joint Resolution 54 (2015), members of the Ill. House and Senate encouraged school districts to not use results of the *Partnership for Assessment of Readiness for College and Careers* (PARCC) test for the 2014-2015 through the 2017-2018 school years "as a determining factor for making decisions about a student's educational opportunities, the evaluation of educators, and the allocation of resources based on educational achievement on this assessment." Starting in 2019, PARCC was no longer used by ISBE.

105 ILCS 5/2-3.64a-5(c), amended by P.A. ~~s-100-7~~ and 101-643, requires that the assessment administered by ISBE for the purpose of student application to or admissions consideration by institutions of higher education be administered on a school day during regular student attendance hours. Assessments are not required if ISBE receives a waiver from the administration of assessments from the U.S. Dept. of Education. Id.

105 ILCS 5/2-3.64a-5(e), ~~amended by P.A. 100-222~~, no longer requires that the scores attained by a student on an assessment that includes a college and career readiness determination be entered on the student's transcript; however, the scores must still be placed in the student's permanent record. See also 23 Ill.Admin.Code §375.10.

⁴ 105 ILCS 5/10-20.9a(b).

⁵ Id.

⁶ The specific reasons and procedure for changing a grade are at the local board's discretion; however, State law provides that no grade may be changed without notification to the teacher concerning the nature and reason for the change. 105 ILCS 5/10-20.9a(a). The person making the change must assume all responsibility and must initial the change. Id.

- A technical error in assigning a particular grade or score,
- The teacher agrees to allow the student to do extra work that may impact the grade,
- An inappropriate grading system used to determine the grade, or
- An inappropriate grade based on an appropriate grading system.

Should a grade change be made, the administrator making the change must sign the changed record.

LEGAL REF.: 105 ILCS 5/2-3.64a-5, 5/10-20.9a, 5/10-21.8, and 5/27-27.

CROSS REF.: 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 6:300 (Graduation Requirements), 6:340 (Student Testing and Assessment Program), 7:50 (School Admissions and Student Transfers To and From Non-District Schools)

DRAFT

Instruction

Graduation Requirements ¹

To graduate from high school, unless otherwise exempted, each student is responsible for:

1. Completing all District graduation requirements that are in addition to the State requirements. ²
2. Completing all courses as provided in the School Code, 105 ILCS 5/27-22. ³
3. Completing all minimum requirements for graduation as specified in State law. ⁴
4. Passing an examination on patriotism and principles of representative government, proper use of the flag, methods of voting, and the Pledge of Allegiance. ⁵
5. Participating in State assessments that are required for graduation by State law. ⁶

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¹ State or federal law controls this policy's content. Graduation requirements are often published in student handbooks. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/mshwww.ilprincipals.org/resources/model-student-handbook.

In accordance with 105 ILCS 5/2-3.159, amended by P.A. 101-503, and 23 Ill.Admin.Code Part 680, a school district may establish a program to recognize high school graduates who attained a high level of proficiency in one or more languages in addition to English by designating on a student's diploma and transcript a State Seal of Bilingualism. See policy 6:320

[105 ILCS 5/10-20.9a\(c\) and \(d\), added by P.A. 102-727, and inoperative "on and after three years" from 5-6-22, prohibits public high schools from withholding a student's grades, transcripts, or diploma because of an unpaid balance on the student's school account. See sample policy 6:280, *Grading and Promotion*, at f/n 3, for a discussion about the expiration date of this law.](#)

² Optional. 23 Ill.Admin.Code § 1.440(f). A school board should ensure that all district graduation requirements that are in addition to the State requirements are aligned with the district educational objectives. See policy 6:10, *Educational Philosophy and Objectives*.

³ 105 ILCS 5/27-22(e), amended by P.A.s 101-464, 101-654, 102-366, ~~and~~ 102-551, [and 102-864](#), contains the list of required courses in effect through the 2023-2024 school year. 105 ILCS 5/27-22(e-5), added by P.A. 101-654 [and amended by P.A. 102-864](#), contains the list of required courses effective beginning with the 2024-2025 school year (to include two years of laboratory science). 105 ILCS 5/27-22(e-10), added by P.A. 101-654, increases the foreign language requirement from one to two years beginning with the 2028-2029 school year. 105 ILCS 5/27-22(e)(3) [and \(e-5\)\(3\)](#) allows the substitution of an advanced placement computer science course for a year of mathematics, and it further states that a mathematics course that includes geometry content may be offered as an integrated, applied, interdisciplinary, or career and technical education course that prepares a student for a career readiness path. 105 ILCS 5/27-22(e)(5), amended by P.A. 102-366, [and 105 ILCS 5/27-22\(e-5\)\(5\), amended by P.A. 102-864](#), requires students entering the 9th grade in the 2016-2017 school year and each year thereafter to complete one semester of civics. As part of the two-year social studies requirement, districts may include a financial literacy course that is one semester or part of one semester. *Id.* For specific requirements, see 6:300-E2, *State Law Graduation Requirements*, and 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students*. The Ill. State Board of Education (ISBE) may adopt rules modifying graduation requirements for students in grades 9-12 if the Governor has declared a disaster due to a public health emergency under 20 ILCS 3305/7. 105 ILCS 5/27-22(i), added by P.A. 101-643.

⁴ 105 ILCS 5/27-22(e), amended by P.A.s 101-464, 101-654, 102-~~3266~~, ~~and~~ 102-551, [and 102-864](#); 23 Ill.Admin.Code § 1.440.

⁵ Required by 105 ILCS 5/27-3, amended by P.A. 101-643.

⁶ 105 ILCS 5/2-3.64a-5(c), amended by P.A. ~~s~~101-643, states that "[s]tudents who do not take the State's final accountability assessment or its approved alternate assessment may not receive a regular high school diploma unless the student is exempted." Assessments are not required if ISBE receives a waiver from the administration of assessments from the U.S. Dept. of Education. *Id.*

6. Filing one of the following: (1) a Free Application for Federal Student Aid (FAFSA) with the U.S. Dept. of Education, (2) an application for State financial aid, or (3) an Ill. State Board of Education (ISBE) waiver form indicating that the student understands what these aid opportunities are and has chosen not to file an application. If the student is not at least 18 years of age or legally emancipated, the student's parent/guardian must file one of these documents on the student's behalf.

A student is exempt from this requirement if: (1) the student is unable to file a financial aid application or an ISBE waiver due to extenuating circumstances, (2) the Building Principal attests the District made a good faith effort to assist the student or the student's parent/guardian with filing a financial aid application or an ISBE waiver form, and (3) the student has met all other graduation requirements.⁷

The Superintendent or designee is responsible for:⁸

1. Maintaining a description of all course offerings that comply with the above graduation requirements.
2. Notifying students and their parents/guardians of graduation requirements.
3. Developing the criteria for #4 above.
4. Complying with State law requirements for students who transfer during their senior year because their parent(s)/guardian(s) are on active military duty. This includes making reasonable adjustments to ensure graduation if possible, or efforts to ensure that the original (transferor) school district issues the student a diploma.
5. Taking all other actions needed or necessary to implement this policy.

Early Graduation⁹

The Superintendent or designee shall implement procedures for students to graduate early, provided they finish seven semesters of high school and meet all graduation requirements.

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

105 ILCS 5/2-3.64a-5(c), amended by P.A.101-643; 23 Ill.Admin.Code §1.30. Section 2-3.64a-5(c) requires that the assessment administered by ISBE for the purpose of student application to or admissions consideration by institutions of higher education be administered on a school day during regular student attendance hours.

105 ILCS 5/2-3.64a-5(e) no longer requires that the scores attained by a student on an assessment that includes a college and career readiness determination be entered on the student's transcript. The student's final accountability assessment scores, however, must be placed in the student's permanent record. See also 23 Ill.Admin.Code §375.10.

⁷ 105 ILCS 5/22-87, added by P.A. 101-180; 23 Ill.Admin.Code §1.440(c)(4). See 6:300-E3, *Form for Exemption from Financial Aid Application Completion*. ISBE provides a waiver form, the FAFSA Nonparticipation Form, for a parent/guardian or eligible student to opt of this graduation requirement at: www.isbe.net/Pages/FAFSA.aspx www.isbe.net/Documents/FAFSA_Non_Participation_Form.pdf. The Alternative Application for Ill. Financial Aid referenced in that form is intended for use by qualifying undocumented and transgender students; and is available at: <https://studentportal.isac.org/alternativeapp>.

⁸ Items #1 and #2 are required by 23 Ill.Admin.Code §1.440(d) and (e), respectively. Item #3 must be addressed because the law leaves many implementation issues unanswered. A comprehensive Student Handbook can provide notice of the district's graduation requirements, conduct rules, and other important information. Item #4 includes discussion of the adjustments required by the Educational Opportunity for Military Children Act, 105 ILCS 70/35(d).

⁹ This is optional. State law and rules are silent regarding early graduation. As an alternative, a board may delete the phrase "finish 7 semesters of high school and."

Certificate of Completion ¹⁰

A student with a disability who has an Individualized Education Program prescribing special education, transition planning, transition services, or related services beyond the student's four years of high school, qualifies for a certificate of completion after the student has completed four years of high school. The student is encouraged to participate in the graduation ceremony of his or her high school graduation class. The Superintendent or designee shall provide timely written notice of this requirement to children with disabilities and their parents/guardians.

Service Member Diploma ¹¹

The District will award a diploma to a service member who was killed in action while performing active military duty with the U.S. Armed Forces or an honorably discharged veteran of World War II, the Korean Conflict, or the Vietnam Conflict, provided that he or she (1) resided within an area currently within the District at the time he or she left high school, (2) left high school before graduating in order to serve in the U.S. Armed Forces, and (3) has not received a high school diploma.

LEGAL REF.: 105 ILCS 5/2-3.64a-5, 5/22-27, 5/22-87, 5/27-3, 5/27-22, and 5/27-22.10.
105 ILCS 70/, Educational Opportunity for Military Children Act.
23 Ill.Admin.Code §1.440.

CROSS REF.: 6:30 (Organization of Instruction), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students), 6:315 (High School Credit for Students in Grade 7 or 8), 6:320 (High School Credit for Proficiency), 7:50 (School Admissions and Student Transfers To and From Non-District Schools)

DRAFT

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

¹⁰ Required by 105 ILCS 5/14-16.

¹¹ Optional. 105 ILCS 5/22-27, amended by P.A. 101-131, does not designate a time requirement for when the service member killed in action or veteran "resided within an area currently within the district." Thus, a reasonable interpretation may be adopted locally. The sample policy designates "at the time he or she left high school" as the pertinent time for residence. See 6:300-E1, *Application for a Diploma for a Service Member Killed in Action or for Veterans of WWII, the Korean Conflict, or the Vietnam Conflict*.

Instruction

High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students¹

Credit for Non-District Experiences²

A student may receive high school credit for successfully completing any of the listed courses or experiences even when it is not offered in or sponsored by the District:

1. Distance learning course, including a correspondence, virtual, or online course
2. Courses in an accredited foreign exchange program
3. Summer school or community college courses³
4. College or high school courses offering dual credit at both the college and high school level⁴

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¹ State law requires that several of the programs in this policy be covered in policy. State law controls this policy's content. Note that 23 Ill.Admin.Code §1.420(b) requires "[e]very school district [to] have an organized plan for recording pupil progress and/or awarding credit, including credit for courses completed by correspondence, on-line, or from other external sources, that can be disseminated to other schools within the State." Section 1.460 requires "[e]ach local board of education with a high school [to] adopt a policy which defines the board's position with reference to the awarding of high school credit on the basis of local examinations to pupils who have achieved the necessary proficiencies through independent study, either with or without private tutoring, or for work taken in or from another institution." 23 Ill.Admin.Code §1.460.

Sample policy 6:185, *Remote Educational Program*, provides for educational programs **delivered by the district** in a location outside of the school.

Sample policy 6:315, *High School Credit for Students in Grade 7 or 8*, allows students enrolled in grade 7 or 8 to enroll in a course required for high school graduation. 105 ILCS 5/27-22.10(a); 23 Ill.Admin.Code §1.440(c)(3).

² Each board may choose for which, if any, of the listed non-district experiences the district will grant high school credit. If a district does not grant credit for any of the listed activities, substitute the following alternative for all text in the entire section: "The District does not grant graduation credit for learning experiences that an enrolled student does not complete through the District."

³ 105 ILCS 5/27-22.1 provides that no fewer than 60 hours of classroom instruction in summer school is required for one semester of high school course credit. Districts may accept courses completed in a community college (CC) toward graduation. 23 Ill.Admin.Code §1.440(f). Superintendents, pursuant to 105 ILCS 5/10-21.4, must annually report to the Ill. State Board of Education (ISBE) the number of students enrolled in accredited courses at any CC along with the name(s) and number(s) of the course(s) each student is taking.

⁴ The Dual Credit Quality Act (DCQA) (110 ILCS 27/, amended by P.A.s 102-516 and 102-1077, eff. 1-1-23) defines dual credit as a college course taken by a high school student for credit at both the college and high school level. 110 ILCS 27/5 and 105 ILCS 5/10-20.62(a). An instructor who teaches a dual credit course does not need the certification required by Article 21 of the School Code but must meet the standards set forth in 110 ILCS 27/20(1), (2), or (3). Dual credit programs require: (a) a specific partnership agreement between the district and a CC [containing 12 specified elements](#), as long as the district is in the CC's jurisdiction (110 ILCS 27/16), or (b) cooperation between the school district and the institution providing the dual credit courses (see the Higher Education Student Assistance Act at 110 ILCS 947/10 for a definition of *institution*). [Partnership agreements that are entered into, amended, renewed, or extended after 1-1-23, must allow high school students who do not otherwise meet the CC's academic eligibility requirements to enroll in a dual credit course taught at the high school, but only for high school credit. 110 ILCS 27/16.5\(a\), added by P.A. 102-1077, eff. 1-1-23.](#) If the district and CC cannot agree within 180 days of a district's initial request to enter into a partnership agreement, the two parties must use the model partnership agreement located at 110 ILCS 27/19.

5. Foreign language courses taken in an ethnic school program approved by the Illinois State Board of Education ⁵
6. Work-related training at manufacturing facilities or agencies in a Tech Prep Program ⁶
7. Credit earned in a Vocational Academy ⁷

The student must seek approval from the Superintendent or designee to receive graduation credit for any non-District course or experience. The Superintendent or designee shall determine the amount of credit and whether a proficiency examination is required before the credit is awarded. As approval is not guaranteed, students should seek conditional approval of the experience before participating in a non-District course or experience. The student assumes responsibility for any fee, tuition, supply, or other expense. The student seeking credit is responsible for (1) providing documents or transcripts that demonstrate successful completion of the experience, and (2) taking a proficiency examination, if requested. The Superintendent or designee shall determine which, if any, non-District courses or experiences, will count toward a student's grade point average, class rank, and eligibility for athletic and extracurricular activities. When applicable, the Building Principal or designee shall, prior to the first day of class, inform individual high school students enrolled in a mixed enrollment dual credit course that includes students who have and have not met the community college's criteria for dual

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Out-of-state dual credit contracts are prohibited until a district first offers the CC in the district in which the district is located the opportunity to provide a dual credit course. 110 ILCS 27/17. In addition, a district seeking to enter into an agreement with an out-of-state institution must provide notice to the Ill. State Board of Higher Education (BHE) of its intent to which the BHE will have 30 days to provide the district with a list of in-state institutions that can provide the district an equivalent dual credit opportunity. *Id.* Agreements between a district and an out-of-state institution that were in effect before 1-1-19 will not be affected. *Id.* A high school evaluation of a dual credit program must also incorporate the analysis of data from the ISBE statewide longitudinal data system (see the P-20 Longitudinal Education Data System Act, 105 ILCS 13/, for more information).

105 ILCS 5/10-20.62(c), requires school boards to require the district's high schools, if any, to inform all 11th and 12th grade students of dual enrollment and dual credit opportunities at public CCs for qualified students. Qualified students may enroll in an unlimited amount of dual credit courses and earn an unlimited amount of academic credits from them if the course(s) are taught by an Ill. instructor, as provided by 110 ILCS 27/. *Id.* at (b). In addition, all dual credit coursework completed by a high school student must be transferred to all public institutions in Illinois on the same basis as coursework completed by a public CC student who previously earned a high school diploma in the manner set forth under the Ill. Articulation Initiative Act. *Id.* at 27/19.

The DCQA requires partnership agreements between districts and CCs to address access to dual credit courses by individual students with disabilities. 110 ILCS 27/16, amended by P.A.s 102-516 and 102-1077. 105 ILCS 5/14-8.03, amended by P.A. 102-516 also requires districts to provide special education students with information about career and technical education (CTE) opportunities, including at the postsecondary level. See *Increasing Postsecondary Opportunities and Success for Students and Youth with Disabilities* at: www.sites.ed.gov/idea/idea-files/qa-increasing-postsecondary-opportunities-success-for-students-youth-with-disabilities-sept-17-2019/#Letter for information on providing transition services to high school students who have individualized education programs (IEPs), are receiving services under the IDEA, and take courses offered by a community college or other postsecondary education institution program prior to high school graduation.

⁵ 105 ILCS 5/2-3.44 and 5/10-22.43a. An ethnic school is a part-time, private school that teaches the foreign language of a particular ethnic group as well as the culture, geography, history, and other aspects of a particular ethnic group. 105 ILCS 5/2-3.44; 23 Ill.Admin.Code §1.465(b). For requirements, see 23 Ill.Admin.Code §1.465.

⁶ The State Superintendent and Board of Higher Education were encouraged by 105 ILCS 5/2-3.115 to establish a program of academic credit for Tech Prep work based learning for secondary school students with an interest in pursuing such career training, which could be instituted by school districts. See also 23 Ill.Admin.Code §1.445.

⁷ Vocational Academies Act, 105 ILCS 433/. The Act's purpose is to "integrate workplace competencies and career and technical education with core academic subjects." School districts are permitted to partner with CCs, local employers, and community-based organizations to establish a vocational academy that functions as a two-year school within a school for grades 10 through 12. Grant funds may be available from ISBE when the vocational academy meets statutory requirements.

[credit coursework of whether or not they are eligible to earn college credit for the course.](#)⁸ This section does not govern the transfer of credits for students transferring into the District.

Substitutions for Required Courses

Vocational or technical education.⁹ A student in grades 9-12 may satisfy one or more high school courses (including physical education) or graduation requirements by successfully completing related vocational or technical education courses if:¹⁰

1. The Building Principal approves the substitution(s) and the vocational or technical education course is completely described in curriculum material along with its relationship to the required course; and
2. The student's parent/guardian requests and approves the substitution(s) in writing on forms provided by the District.

Registered Apprenticeship Program.¹¹ The Superintendent or designee will ensure that the District complies with State law requirements for registered apprenticeship programs.¹² The opportunities and requirements for registered apprenticeship programs contained in this policy will be posted on the

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⁸ [110 ILCS 27/16.5\(c\), added by P.A. 102-1077, eff. 1-1-23. Written notification is not required by the law, but it is a best practice to show compliance with this requirement.](#)

⁹ Allowing for this substitution is optional, but, if offered, must be included in board policy. 105 ILCS 5/27-22.05.

¹⁰ The *related* requirement is met if the course contains at least 50% of the content of the required course. *Id.* 23 Ill.Admin.Code §1.445 requires that the vocational or technical education course be completely described in the policy along with its relationship to the required course. The sample policy satisfies these requirements by referring to the courses as described in curricular material.

ISBE requires that the parent/guardian of a student under the age of 18 request the course substitution “on forms that the school district makes available” and that the request must be maintained in the student’s temporary record. 23 Ill.Admin.Code §1.445. See 6:310-E, *Class Substitution Request*. There is no parallel recordkeeping requirement in the rules for registered apprenticeships; however, it is best practice to maintain all types of substitution requests as evidence of compliance with the form requirement.

¹¹ Allowing for this substitution is optional, but, if offered, must be included in board policy. 105 ILCS 5/2-3.175, renumbered by P.A. 101-81; 23 Ill.Admin.Code §255.200. A *registered apprenticeship program* is an industry-based occupational training program of study with standards reviewed and approved by the U.S. Dept. of Labor that meets characteristics set forth in State law and ISBE rules. The introductory sentence and listed items 1, 3, 4, and 6 are required to be in the policy if a board decides to allow students to participate in registered apprenticeship programs. See 23 Ill.Admin.Code §255.200(b). Item #2 is not required to be stated in policy, but is required to be included in a district’s website notification (if any) to parents/guardians about registered apprenticeship opportunities. See f/n 13, below.

If a board adopts a policy to allow for student participation in registered apprenticeship programs, the policy must be posted on the district’s website (if any) for students, parents, and members of the business and industry community to access. 23 Ill.Admin.Code §255.200(c)(1). See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*, and f/ns 12 and 13 below for other related website posting requirements.

[Employers providing apprenticeships may seek tax credits for certain educational expenses they incur on behalf of qualifying apprentices for calendar years 2020-2025.](#) 35 ILCS 5/231(b), added by P.A. 101-207. [Districts that carry out registered apprenticeship programs should, but are not required to, aid an employer in claiming the credit by providing a written receipt documenting the apprenticeship education expenses paid to the school by the employer.](#) 14 Ill.Admin.Code §522.50(e). See www2.illinois.gov/dceo/ExpandRelocate/Incentives/Pages/ILApprenticeshipTaxCredit.aspx for more information about the credit.

¹² 105 ILCS 5/2-3.175; 23 Ill.Admin.Code Part 255. In addition to the requirements listed in the policy, districts allowing for student participation in registered apprenticeship programs must also: (1) submit data on participating students through ISBE’s Student Information System, (2) identify and attempt to eliminate any barriers to student participation, and (3) include the program in the Career Pathway Endorsement if the district awards endorsements under the Postsecondary and Workforce Readiness Act (110 ILCS 148/). 23 Ill.Admin.Code §255.200(d)-(f).

District's website, and parents/guardians and students will also be notified of such opportunities in the appropriate school handbook(s). ¹³

A student in grades 9-12 who is 16 years or older may satisfy one or more high school courses (including physical education) or graduation requirements by successfully completing a registered apprenticeship program if:

1. The registered apprenticeship program meets all criteria contained in State law;
2. The registered apprenticeship program is listed by the District, or the student identifies a registered (but not listed) apprenticeship program with a business or organization if one is not offered in the District;
3. The student enrolled in a registered apprenticeship program has the opportunity to earn post-secondary credit toward a certificate or degrees, as applicable;
4. The student's parent/guardian requests and approves the substitution(s) in writing on forms provided by the District and on its website; ¹⁴
5. The Building Principal approves the substitution(s); and
6. All non-academic requirements mandated by the School Code for high school graduation that would otherwise prohibit or prevent the student from participating in the registered apprenticeship program are waived.

Advanced placement computer science.¹⁵ The advanced placement computer science course is equivalent to a high school mathematics course. A student in grades 9-12 may substitute the advanced placement computer science course for one year of mathematics, in accordance with Section 27-22 of the School Code. The transcript of a student who completes the advanced placement computer science course will state that it qualifies as a mathematics-based, quantitative course.

Substitutions for physical education. A student in grades 9-12, unless otherwise stated, may submit a written request to the Building Principal to be excused from physical education courses for the reasons stated below.¹⁶ The Superintendent or designee shall maintain records showing that the criteria set forth in this policy were applied to the student's individual circumstances, as appropriate. ¹⁷

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¹³ 23 Ill.Admin.Code §255.200(c). The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/msh www.ilprincipals.org/resources/model-student-handbook. The notification to students and parents on the district's website must include: (1) a statement that a student may participate in any registered apprenticeship program listed by the district; and (2) a statement that a student may find a registered, but not listed, apprenticeship program with a business or organization, if a registered apprenticeship program is not offered in the district. 23 Ill.Admin.Code §255.200(c)(2). See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. For districts that do not maintain a website, use the following alternative sentence:

Parents/guardians and students will be notified of opportunities for registered apprenticeship programs in the appropriate school handbook(s).

¹⁴ 23 Ill.Admin.Code §255.200(b)(4). See 6:310-E, *Class Substitution Request*, and 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. If the district does not maintain a website, delete ~~and on its website~~.

¹⁵ Optional, but allowed by 105 ILCS 5/27-22(e)(3), amended by P.A. 101-464, and 5/27-22(f-5).

¹⁶ Optional, but allowed by 105 ILCS 5/27-6(b); 23 Ill.Admin.Code §1.425(e). A board that wants to allow any of these P.E. exemptions must include the ones it selects in a policy that excuses students on an individual basis.

¹⁷ 23 Ill.Admin.Code §1.425(e).

1. Ongoing participation in a marching band program for credit; ¹⁸
2. Enrollment in Reserve Officer's Training Corps (ROTC) program sponsored by the District; ¹⁹
3. Ongoing participation in an *interscholastic* or *extracurricular athletic program*; ²⁰
4. Enrollment in academic classes that are required for admission to an institution of higher learning (student must be in the 11th or 12th grade);²¹ or
5. Enrollment in academic classes that are required for graduation from high school, provided that failure to take such classes will result in the student being unable to graduate (student must be in the 11th or 12th grade). ²²

A student who is eligible for special education may be excused from physical education courses pursuant to 7:260, *Exemption from Physical Education*.

Volunteer service credit.²³ A student participating in the District's Volunteer Service Credit Program, if any, may earn credit toward graduation for the performance of community service. The

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¹⁸ 23 Ill.Admin.Code §1.425(e)(4)(A). This policy excuses students from P.E. only during the marching band season because the statute allows the exemption "for ongoing participation in such marching band program." Thus, if the marching band season is over, the student's *ongoing participation* has ceased and the student no longer qualifies for the P.E. exemption. Common sense, however, would allow the exemption to continue until the end of the current grading period.

¹⁹ 23 Ill.Admin.Code §1.425(e)(4)(B).

²⁰ 23 Ill.Admin.Code §1.425(e)(2) and (e)(3)(A). Prior to P.A. 100-465, the statute only allowed students in grades 11 and 12 to be excused from P.E. "for ongoing participation in an interscholastic athletic program." 105 ILCS 5/27-6(b)(1). 105 ILCS 5/27-6(b), ~~amended by P.A. 100-465~~, now states "on a case-by-case basis, excuse pupils in grades 7 through 12 who participate in an interscholastic or extracurricular athletic program." While the statute no longer requires such participation to be *ongoing*, 23 Ill.Admin.Code §1.425(e)(3) requires *ongoing participation*. Thus, if the athletic program is over, the student's *ongoing participation* has ceased and the student no longer qualifies for the P.E. exemption. Common sense, however, would allow the exemption to continue only until the end of the grading period during which the athletic program is active. 23 Ill. Admin. Code §1.425(e)(2) limits interscholastic and extracurricular athletic programs to those that are sponsored by the school district as defined in school board policy. Boards do not have the "authority to honor parental excuses based upon students' participation in athletic training, activities or competitions conducted outside the auspices of the school district." *Id.* at §1.425(e)(6).

State statutes do not define *interscholastic athletic program* or *extracurricular athletic program*; however, 105 ILCS 5/22-80 defines *interscholastic athletic activity* as "any organized school-sponsored or school-sanctioned activity for students, generally outside of school instructional hours, under the direction of a coach, athletic director, or band leader, including, but not limited to, baseball, basketball, cheerleading, cross country track, fencing, field hockey, football, golf, gymnastics, ice hockey, lacrosse, marching band, rugby, soccer, skating, softball, swimming and diving, tennis, track (indoor and outdoor), ultimate Frisbee, volleyball, water polo, and wrestling." 23 Ill.Admin.Code §1.425(e)(2), ~~added at 42 Ill. Reg. 11542~~, defines *interscholastic* and *extracurricular athletic programs* as "those programs that are sponsored by the school district as defined by school district policy." Boards have no authority to honor parental excuses based upon students' participation in athletic training, activities or competition conducted outside the auspices of the school district. 23 Ill.Admin.Code §1.425(e)(6).

For boards that want to explain the meaning of *interscholastic or extracurricular athletic program*, insert the following option at the end of #3:

(organized school-sponsored or school-sanctioned activities for students that are not part of the curriculum, not graded, not for credit, generally take place outside of school instructional hours, and under the direction of a coach, athletic director, or band leader)

For unit districts, ensure the definition matches the definition in policy 7:260, *Exemption from Physical Education*.

²¹ 23 Ill.Admin.Code §1.425(e)(3)(B).

²² 23 Ill.Admin.Code §1.425(e)(3)(C).

²³ Optional. The credit given for one semester may not exceed that stated in this policy. 105 ILCS 5/27-22.3. The program may include participation in the organization of a high school or community blood drive or other blood donor recruitment campaign. *Id.* ISBE must provide assistance to districts opting to offer the program. 105 ILCS 5/2-3.108.

amount of credit given for program participation shall not exceed that given for completion of one semester of language arts, math, science, or social studies.

Re-Entering Students ²⁴

Individuals younger than 21 years of age may re-enter high school to acquire a high school diploma or an equivalency certificate, subject to the limitations in Board policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*. Re-entering students may obtain credit through the successful completion of the following (not all of these may be available at any one time):

1. District courses
2. Non-District experiences described in this policy
3. Classes in a program established under Section 10-22.20 of the School Code, in accordance with the standards established by the Illinois Community College Board
4. Proficiency testing, correspondence courses, life experiences, and other nonformal educational endeavors
5. Military service, provided the individual making the request has a recommendation from the American Council on Education

The provisions in the section **Credit for Non-District Experiences**, above, apply to the receipt of credit for any non-District course.

LEGAL REF.: 105 ILCS 5/2-3.44, 5/2-3.108, 5/2-3.115, 5/2-3.142, 5/2-3.175, 5/10-22.43a, [5/10-20.62](#), 5/27-6, 5/27-22.3, and 5/27-22.05.
110 ILCS 27/, Dual Credit Quality Act.
23 Ill.Admin.Code §§1.425(e), 1.440(f), 1.470(c), and Part 255.

CROSS REF.: 6:180 (Extended Instructional Programs), 6:300 (Graduation Requirements), 6:315 (High School Credit for Students in Grade 7 or 8), 6:320 (High School Credit for Proficiency), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:260 (Exemption from Physical Education)

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²⁴ Required by 23 Ill.Admin.Code §1.470(a). While the sample policy does not provide for it, a school board may permit adults 21 years of age or older to re-enter high school. 23 Ill.Admin.Code §1.470(b). Items #4 & #5 are optional, but must be included in a policy if credit will be granted for them. 105 ILCS 5/27-6, 27-22.05.

Instruction

Student Testing and Assessment Program ¹

The District student assessment program provides information for determining individual student achievement and instructional needs, curriculum and instruction effectiveness, and school performance measured against District student learning objectives and statewide norms.

The Superintendent or designee shall manage the student assessment program that, at a minimum:

1. Administers to students all standardized assessments required by the Ill. State Board of Education (ISBE) and/or any other appropriate assessment methods and instruments, including norm and criterion-referenced achievement tests, aptitude tests, proficiency tests, and teacher-developed tests.
2. Informs students of the timelines and procedures applicable to their participation in every State assessment. ²
3. Provides each student's parents/guardians with the results or scores of each State assessment and an evaluation of the student's progress. See policy 6:280, *Grading and Promotion*. ³
4. Utilizes professional testing practices. ⁴

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¹ State and federal law control this policy's content. 105 ILCS 5/2-3.64a-5(b) requires the Ill. State Board of Education (ISBE) to "establish the academic standards that are to be applicable to students who are subject to State assessments." It contains the schedule for assessing students by calendar year and grade. Further information on ISBE assessments is available at: www.isbe.net/Pages/Assessment.aspx www.isbe.net/Pages/IAR.aspx.

105 ILCS 5/2-3.64a-5(c), amended by P.A. 101-643, requires that the assessment administered by ISBE for the purpose of student application to or admissions consideration by institutions of higher education be administered on a school day during regular student attendance hours.

105 ILCS 5/2-3.64a-5(d) contains the requirements for assessing students receiving special education services and students determined to be English learners. 105 ILCS 5/2-3.64a-5(e) no longer requires that the scores attained by a student on an assessment that includes a college and career readiness determination be entered on the student's transcript. The scores, however, must be placed in the student's permanent record. See 23 Ill.Admin.Code §375.10. Scores received on state assessments administered in kindergarten through grade 8 must be placed in the student's temporary record. Id.

105 ILCS 5/2-3.64a-10(b), added by P.A. 101-654, requires ISBE to annually assess all public school students entering kindergarten using a common observational assessment tool, unless ISBE determines that a student is otherwise exempt. However, 105 ILCS 5/2-3.64a-15, added by P.A. 102-875, prohibits ISBE from requiring a standardized assessment for students enrolled or preparing to enroll in pre-K through grade 2. Standardized assessment does not include the observational assessment tool for students entering kindergarten, and ISBE may still require assessments used only for diagnostic and screening purposes, to determine if individual students need remedial instruction, special education, early intervention, bilingual education, dyslexia services, or other related educational services. Id. at (a) and (b), added by P.A. 102-875. The law does not prohibit districts or teachers from administering an assessment for an individual classroom, grade level, or group of grade levels in any subject area in pre-K through grade 2, nor does it limit a district's ability to evaluate students for special education services under federal law or to annually assess the English proficiency of English learners under the federal Elementary and Secondary Education Act. Id. at (d), (e), and (f), added by P.A. 102-875.

² Required by 105 ILCS 5/2-3.64a-5(c), amended by P.A. 101-643.

³ 105 ILCS 5/2-3.64a-5(e) and 5/2-3.64a-10(c), added by P.A. 101-654, requires districts to provide State assessment results/scores to students' parents/guardians. The second part of this provision is optional and may be deleted, i.e., "~~and an evaluation of the student's progress.~~"

⁴ 105 ILCS 5/2-3.107; 23 Ill.Admin.Code §1.30(b).

Overall student assessment data on tests required by State law will be aggregated by the District and reported, along with other information, on the District’s annual report card.⁵ All reliable assessments administered by the District and scored by entities outside of the District must be (1) reported to ISBE on its form by the 30th day of each school year, and (2) made publicly available to parents/guardians of students.⁶ Board policy 7:340, *Student Records*, and its implementing procedures govern recordkeeping and access issues.⁷

LEGAL REF.: 20 U.S.C. §1232g, Family Educational Rights and Privacy Act.
105 ILCS 10/, Illinois School Student Records Act.
105 ILCS 5/2-3.63, 5/2-3.64a-5, 5/2-3.64a-10, [5/2-3.64a-15](#), 5/2-3.107, 5/2-3.153,
5/10-17a, 5/22-82, and 5/27-1.
23 Ill. Admin. Code §§1.30(b) and §375.10.

CROSS REF.: 6:15 (School Accountability), 6:280 (Grading and Promotion), 7:340 (Student Records)

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⁵ Required by 105 ILCS 5/10-17a. School districts must annually, no more than 30 days after receipt from the State Superintendent release their district’s and schools’ report cards assessing the performance of its schools and students. Districts must: (1) present the report cards at a regular Board meeting, (2) post them on the District’s website, (3) make them available to a newspaper of general circulation serving the District, and (4) upon request, send them home to parents/guardians. 105 ILCS 5/10-17a(5). The school report card must describe, among other items, student characteristics, curriculum information, student outcomes and progress, and school environment. The environment report must include indicators from the *school climate survey* approved under 105 ILCS 5/2-3.153 (requires ISBE, in addition to its default school climate survey, to identify two or three alternative school survey instruments from which districts may select).

⁶ 105 ILCS 5/22-82 requires every school district to report to ISBE for each of its schools, by the 30th day of each school year, all reliable assessments the district administers that are scored by entities outside of the district. The district must make the report on an ISBE-provided form.

Each school must also make this information publicly available to the parents and guardians of its students through the district’s Internet website or distribute the information in paper form. *Id.* at (b). See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Although not required by law, if a board wants to direct that this information be shared more broadly with the public for greater transparency, add “and to the community” after “parents/guardians of students.”

⁷ 105 ILCS 5/2-3.64a-5(e) governs recording assessment results in school student records. See also the Ill. School Student Records Act, 105 ILCS 10/; 23 Ill.Admin.Code §375.10.

**IASB POLICY REFERENCE MANUAL
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Students

Equal Educational Opportunities ¹

Equal educational and extracurricular opportunities shall be available for all students without regard to color, race,² nationality, religion, sex, sexual orientation, ancestry, age, physical or mental disability, gender identity,³ status of being homeless, immigration status, order of protection status, actual or potential marital or parental status, including pregnancy.⁴ Further, the District will not knowingly enter into agreements with any entity or any individual that discriminates against students on the basis of sex or any other protected status, except that the District remains viewpoint neutral

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 requires this subject matter be covered by policy and controls this policy's content.

² [The Ill. Human Rights Act \(IHRA\) defines race to include traits associated with race, including, but not limited to, hair texture and protective hairstyles such as braids, locks, and twists. 775 ILCS 5/1-103\(M-5\), added by P.A. 102-1102, eff. 1-1-23. The Ill. Dept. of Human Rights' \(IDHR\) jurisdiction over schools as "places of public accommodation" is limited, see f/n 4, below. See also sample policy 7:160, *Student Appearance*, regarding hairstyles associated with race.](#)

³ Adopting separate policies or inserting policy statements about accommodations and inclusion of transgender students in the educational program are unsettled areas of the law. Some lawyers believe doing so may open boards to equal protection challenges for not creating separate policies for other protected statuses, e.g., race, nationality, religion, etc. Executive Order (EO) 2019-11, titled "Strengthening Our Commitment to Affirming and Inclusive Schools" established the Affirming and Inclusive Schools Task Force (Task Force) to identify strategies and best practices for ensuring welcoming, safe, supportive, and inclusive school environments for transgender, nonbinary, and gender nonconforming students. The Task Force delivered a report that served as the basis for two non-regulatory guidance documents entitled *Supporting Transgender, Nonbinary and Gender Nonconforming Students* and *Sample District Policy and Administrative Procedures* at www.isbe.net/supportallstudents. The Ill. State Board of Education (ISBE) hosts these documents on its website.

Consult the board attorney if your board wishes to adopt a separate policy or insert policy statements about accommodations and inclusion of transgender students.

For boards that want to incorporate ISBE's *Sample District Policy and Administrative Procedures* policy recommendation into this policy, insert the following in place of "gender identity,": gender, gender identity (whether or not traditionally associated with the student's sex assigned at birth), gender expression.

If the board inserts this option, it must also insert the options in f/n 7, below and in f/n 2 of sample policy 7:20, *Harassment of Students Prohibited*, BUT NOTE THE PROTECTED STATUSES LIST IN THIS POLICY IS DIFFERENT AND SHOULD NOT BE COPIED FROM HERE INTO 7:20, *HARASSMENT OF STUDENTS PROHIBITED*.

See 7:10-API, *Accommodating Transgender Students or Gender Non-Conforming Students*, for a case-by-case procedure that school officials may use when a student requests an accommodation based upon his or her gender identity.

For a list of policies that address the equal educational opportunities, health, safety, and general welfare of students within the District, see 7:10-E, *Equal Educational Opportunities Within the School Community*.

⁴ Many civil rights laws guarantee equal education opportunities; see citations in the Legal References.

In 23 Ill.Admin.Code §1.240, ISBE states that "no school system may deny access to its schools or programs to students who lack documentation of their immigration status or legal presence in the United States, and no school system may inquire about the immigration status of a student (*Plyler v. Doe*, 457 U.S. 202 (1982))."

The ~~Ill. Human Rights Act (IHRA)~~ and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity*. 775 ILCS [5/1-103\(Q\)](#), [5/5-101\(11\)](#), and [5/5-102](#); 23 Ill.Admin.Code §1.240. *Sexual orientation* is defined as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1). *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103. 775 ILCS 5/1-102(A) makes *order of protection status* a protected category.

The IHRA's jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying or refusing full and equal enjoyment of access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. 775 ILCS 5/5-102.2, amended by P.A. 102-1102, eff. 1-1-23.

when granting access to school facilities under School Board policy 8:20, *Community Use of School Facilities*.⁵ Any student may file a discrimination grievance by using Board policy 2:260, *Uniform Grievance Procedure*.⁶

Sex Equity⁷

No student shall, based on sex, sexual orientation, or gender identity⁸ be denied equal access to programs, activities, services, or benefits or be limited in the exercise of any right, privilege, advantage, or denied equal access to educational and extracurricular programs and activities.

Any student may file a sex equity complaint by using Board policy 2:260, *Uniform Grievance Procedure*. A student may appeal the Board's resolution of the complaint to the Regional

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⁵ 23 Ill.Admin.Code §200.40(~~gb~~) prohibits entering into agreements with entities that discriminate against students on the basis on sex. Section 200.80(a)(4) contains an exception for single sex youth organizations, e.g., Boy and Girl Scouts. Note that the U.S. Supreme Court refused to apply N.J.'s public accommodation law to the Boy Scouts because forcing the Scouts to accept a homosexual as a member would violate the Scouts' freedom of expressive association. Boy Scouts of America v. Dale, 530 U.S. 640 (2002). When deciding whether to allow non-school groups to use its facilities, a public school district may not engage in viewpoint discrimination. Good News Club v. Milford Central Sch., 533 U.S. 98 (2001).

⁶ Districts must have a grievance procedure. See Legal References following policy. Absent a specific statute or rule, there is no consensus on whether students have the right to appeal a board's decision to the Regional Superintendent and thereafter to the State Superintendent pursuant to 105 ILCS 5/2-3.8.

⁷ Every district must have a policy on sex equity. 23 Ill.Admin.Code §200.40(b). The IHRA, Public Accommodation section, prohibits schools from: (1) failing to enroll an individual, (2) denying or refusing an individual full and equal enjoyment of access to its facilities, goods, or services, or (3) failing take corrective action to stop severe or pervasive harassment of an individual (775 ILCS 5/5-102.2, amended by P.A. 102-1102, eff. 1-1-23), on the basis of the individual's sex or sexual orientation, among other classifications (775 ILCS 5/5-101(11)). Every four years, d Districts must periodically evaluate their policies and practices to identify and eliminate sex discrimination as well as evaluate course enrollment data to identify disproportionate enrollment based on sex. In-service training for all staff members is required. 23 Ill.Admin.Code ~~§1.420~~200.40(e).

With some exceptions, Title IX of the Education Amendments of 1972 (Title IX) guarantees that "[n]o person in the United States shall, on the basis of gender, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance..." 20 U.S.C. §§1681(a). Equal participation and equal opportunity in athletics is addressed in the U.S. Dept. of Education's implementing rules. 34 C.F.R. §106.41. Generally, when a school district offers a team for one gender but not for the other, a member of the excluded gender is allowed to try out for the team unless the sport is a *contact sport*. Contact sports are boxing, wrestling, rugby, ice hockey, football, basketball, and other sports involving bodily contact. The rules also list the factors that determine whether equal opportunities are available to both genders. These include: whether the selection of athletics accommodates the interests and abilities of both genders; equipment and supplies; scheduling; opportunity to receive coaching and academic tutoring; locker rooms, practice facilities, and fields; and publicity. Title IX prohibits any person from sexually harassing a student. See sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, for further discussion.

105 ILCS 5/10-20.60 requires public schools to provide reasonable accommodations to breastfeeding students. See sample administrative procedure 7:10-AP-2, *Accommodating Breastfeeding Students*, for specific *reasonable accommodations* under Illinois law.

105 ILCS 5/10-20.63, amended by P.A. 102-340, requires school districts to make menstrual hygiene products (defined as tampons and sanitary napkins for use in connection with the menstrual cycle) available, at no cost to students, in bathrooms of every school building that is open for student use in grades 4 through 12 during the regular school day. **Note:** While P.A. 102-340 expanded the availability of menstrual hygiene products to students in grades 4 and 5, it did not expand the definition of *school building*, which remains defined as serving students in grades 6 through 12. Consult with the board attorney about implementing this law.

⁸ For boards that want to incorporate ISBE's *Sample District Policy and Administrative Procedures* policy recommendations into this policy (see f/n 2 above), insert:

1. In place of "or gender identity" as follows: "~~or~~ gender identity, or gender expression".
2. The following sentence as the second sentence of this subhead: "Students shall be supported in a manner consistent with their gender identity. This will include, but not be limited to, use of restrooms, locker rooms, and other facilities that correspond with the student's gender identity."

Superintendent (pursuant to 105 ILCS 5/3-10) and, thereafter, to the State Superintendent of Education (pursuant to 105 ILCS 5/2-3.8).⁹

Administrative Implementation

The Superintendent shall appoint a Nondiscrimination Coordinator, who also serves as the District's Title IX Coordinator.¹⁰ The Superintendent and Building Principal shall use reasonable measures to inform staff members and students of this policy and related grievance procedures.¹¹

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972; 34 C.F.R. Part 106.
29 U.S.C. §791 et seq., Rehabilitation Act of 1973.
42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.
Good News Club v. Milford Central Sch., 533 U.S. 98 (2001).
Ill. Constitution, Art. I, §18.
105 ILCS 5/3.25b, 5/3.25d(b), 5/10-20.12, 5/10-20.60, 5/10-20.63, 5/10-22.5, and 5/27-1.
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.
775 ILCS 35/5, Religious Freedom Restoration Act.
23 Ill.Admin.Code §1.240 and Part 200.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 6:65 (Student Social and Emotional Development), 7:20 (Harassment of Students Prohibited), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:130 (Student Rights and Responsibilities), 7:160 (Student Appearance), 7:165 (School Uniforms), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:250 (Student Support Services), 7:330 (Student Use of Buildings - Equal Access), 7:340 (Student Records), 8:20 (Community Use of School Facilities)

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

⁹ Districts must have a grievance procedure and must tell students that they may appeal a board's resolution of a sex equity complaint to the Regional Superintendent and, thereafter, to the State Superintendent. 23 Ill.Admin.Code §200.40. Student complaints regarding breastfeeding accommodations must also be processed in accordance with these procedures. See sample policy 2:260, *Uniform Grievance Procedure*, at f/n 8.

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." [Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center."](#)

¹⁰ Required by regulations implementing Title IX. 34 C.F.R. ~~Part §~~106.8(a). See f/ns ~~19~~ 21 and 22 in sample policy 2:260, *Uniform Grievance Procedure*. If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, amend this sentence to state: "The Superintendent shall appoint a Nondiscrimination Coordinator and a Title IX Coordinator."

¹¹ Required by regulations implementing Title IX. 34 C.F.R. Part 106; 23 Ill.Admin.Code §200.40. 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. Faculty handbooks may contain working conditions and be subject to mandatory collective bargaining. The Ill. Principals Association (IPA) maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/msh www.ilprincipals.org/resources/model-student-handbook.

Students

Harassment of Students Prohibited¹

No person, including a School District employee or agent, or student, shall harass, intimidate, or bully a student on the basis of actual or perceived: race; color; national origin; military status; unfavorable discharge status from military service; sex; sexual orientation; gender identity²; gender-related identity or expression; ancestry; age; religion; physical or mental disability; order of protection status; status of being homeless; actual or potential marital or parental status, including pregnancy; association with a person or group with one or more of the aforementioned actual or perceived characteristics; or any other distinguishing characteristic. The District will not tolerate harassing, intimidating conduct, or bullying whether verbal, physical, sexual, or visual, that affects the tangible benefits of education, that unreasonably interferes with a student's educational performance, or that creates an intimidating, hostile, or offensive educational environment. Examples of prohibited conduct include name-calling, using derogatory slurs, stalking, sexual violence, causing psychological harm, threatening or causing physical harm, threatened or actual destruction of

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¹ State or federal law requires this subject matter be covered by policy, controls this policy's content, and 105 ILCS 5/10-20.71, added by P.A. 101-531 and renumbered by P.A. 102-558, requires that every two years, each district within an Illinois county served by an accredited Children's Advocacy Center review all its existing sexual abuse investigation policies and procedures to ensure consistency with 105 ILCS 5/22-85, added by P.A. 101-531. Each district must also have a policy on bullying. 105 ILCS 5/27-23.7; see sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

This policy's list of protected classifications is identical to the list in 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The protected classifications are found in 105 ILCS 5/27-23.7(a); 775 ILCS 5/1-103, amended by P.A. 101-221 and 102-896, eff. 1-1-23; and 23 Ill.Admin.Code §1.240.

The list of protected classifications in sample policy 7:10, *Equal Educational Opportunities*, is different – it does not contain the classifications that are exclusively identified in the bullying statute. 105 ILCS 5/27-23.7.

The Ill. Human Rights Act (IHRA) and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity*. 775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240. *Sexual orientation* is defined as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1). *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103. Additionally, race is defined to include traits associated with race, including, but not limited to, hair texture and protective hairstyles such as braids, locks, and twists. 775 ILCS 5/1-103(M-5), added by P.A. 102-1102, eff. 1-1-23. 775 ILCS 5/1-102(A), added *order of protection status* to its list of protected categories. The IHRA's jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. 775 ILCS 5/5-102.2, amended by P.A. 102-1102, eff. 1-1-23.

² See f/n 32 in sample policy 7:10, *Equal Educational Opportunities*, for a discussion about Executive Order (EO) 2019-11 establishing the Affirming and Inclusive Schools Task Force (Task Force) that made policy and administrative procedure recommendations to the Ill. State Board of Education (ISBE) that are discussed in its publication *Sample District Policy and Administrative Procedures* at www.isbe.net/supportallstudents.

For boards that want to incorporate ISBE's sample policy recommendation, insert the following in place of "gender identity;": gender; gender identity (whether or not traditionally associated with the student's sex assigned at birth);-

If the board inserts this option, it must also insert the options in f/ns 32 and 87 of policy 7:10, *Equal Educational Opportunities*, BUT NOTE THE PROTECTED STATUSES LIST IN THIS POLICY IS DIFFERENT AND SHOULD NOT BE COPIED FROM HERE INTO 7:10, *EQUAL EDUCATIONAL OPPORTUNITIES*.

property, or wearing or possessing items depicting or implying hatred or prejudice of one of the characteristics stated above.³

Sexual Harassment Prohibited

The District shall provide an educational environment free of verbal, physical, or other conduct or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law.⁴ See policies 2:265, *Title IX Sexual Harassment Grievance Procedure*, and 2:260, *Uniform Grievance Procedure*.

Making a Report or Complaint

Students are encouraged to promptly report claims or incidences of bullying, intimidation, harassment, sexual harassment, or any other prohibited conduct to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any employee with whom the student is comfortable speaking.⁵ A student may choose to report to an employee of the student's same gender.

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

³ This list of examples of prohibited conduct is optional. While hate speech is not specifically mentioned in this paragraph, any hate speech used to harass or intimidate is banned. Hate speech without accompanying misconduct may be prohibited in response to actual incidences when hate speech interfered with the educational environment. *West v. Derby Unified Sch. Dist.*, 206 F.3d 1358 (10th Cir. 2000).

⁴ Two laws apply to sexual harassment of students in Illinois. Title IX of the Education Amendments of 1972 (Title IX) and the IHRA prohibit discrimination on the basis of sex and sexual harassment in any educational program or activity receiving federal financial assistance. 20 U.S.C. §1681. Title IX defines sexual harassment as conduct on the basis of sex that meets one or more of the following: (1) a district employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it denies a person equal access to the District's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in federal law. 34 C.F.R. §106.30. See sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, and sample exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*. Consult the board attorney to ensure the nondiscrimination coordinator and complaint managers are trained to appropriately respond to allegations of Title IX sexual harassment. See sample procedures 2:265-AP1, *Title IX Sexual Harassment Response*, and 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

The IHRA prohibits any district employee or agent from sexually harassing a student, and defines sexual harassment as any unwelcome sexual advances or requests for sexual favors made to a student, or any conduct of a sexual nature toward a student, when: (1) such conduct has the purpose of substantially interfering with the student's educational performance or creating an intimidating, hostile or offensive educational environment; or (2) the district employee or agent either explicitly or implicitly makes the student's submission to or rejection of such conduct as a basis for making various enumerated education-related determinations. 775 ILCS 5/5A-1201(E).

School districts are liable for damage awards for an employee's sexual harassment of a student in limited situations. Liability occurs only when a district official who, at a minimum, has authority to institute corrective action, has actual notice of and is deliberately indifferent to the employee's misconduct. *Gebser v. Lago Vista Independent Sch. Dist.*, 524 U.S. 274 (1998). Schools are liable in student-to-student sexual harassment cases when school agents are deliberately indifferent to sexual harassment, of which they have actual knowledge that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school. *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999). The Ill. Dept. of Human Rights investigates charges of sexual harassment in violation of the IHRA, and it is a civil rights violation when a district fails to take remedial or disciplinary action against an employee the district knows engaged in sexual harassment. 775 ILCS 5/5A-102.

⁵ Using "or any employee with whom the student is comfortable speaking" ensures compliance with Title IX regulations providing that "any employee" of an elementary or secondary school who has notice of sexual harassment or allegations of sexual harassment is deemed to have *actual knowledge* which triggers a district's duty to respond. 34 C.F.R. §106.30. By including "any employee" in this list, this policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

Reports under this policy will be considered a report under Board policy 2:260, *Uniform Grievance Procedure*, and/or Board policy 2:265, *Title IX Sexual Harassment Grievance Procedure*. The Nondiscrimination Coordinator and/or Complaint Manager shall process and review the report according to the appropriate grievance procedure.⁶ The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.⁷ The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.⁸

Nondiscrimination Coordinator:

Name

Address

Email

Telephone

Complaint Managers:

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

The Superintendent shall use reasonable measures to inform staff members and students of this policy by including:

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⁶ If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state "The Nondiscrimination Coordinator, Title IX Coordinator, and/or Complaint Manager shall process and review the report according to the appropriate grievance procedure."

⁷ While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

Each district must communicate its bullying policy to students and their parents/guardians. 105 ILCS 5/27-23.7; see sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

⁸ Title IX regulations require districts to identify the name, office address, email address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete "~~The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator,~~" supplement the previous sentence to state "The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator, Title IX Coordinator, and Complaint Managers." Then, list the Title IX and Nondiscrimination Coordinators' names and contact information separately in this policy.

1. For students, age-appropriate information about the contents of this policy in the District's student handbook(s), on the District's website, and, if applicable, in any other areas where policies, rules, and standards of conduct are otherwise posted in each school.⁹
2. For staff members, this policy in the appropriate employee handbook(s), if applicable, and/or in any other areas where policies, rules, and standards of conduct are otherwise made available to staff.

Investigation Process

Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager.¹⁰ Any employee who fails to promptly comply may be disciplined, up to and including discharge.

Reports and complaints of harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain an educational environment that is productive, respectful, and free of unlawful discrimination, including harassment.

For any report or complaint alleging sexual harassment that, if true, would implicate Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.), the Nondiscrimination Coordinator or designee¹¹ shall consider whether action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, should be initiated.

For any other alleged student harassment that does not require action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, the Nondiscrimination Coordinator or a Complaint Manager or designee shall consider whether an investigation under policies 2:260, *Uniform Grievance Procedure*, and/or 7:190, *Student Behavior*, should be initiated, regardless of whether a written report or complaint is filed.

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⁹ In addition to notifying students of policies 2:260, *Uniform Grievance Procedure*, and 2:265, *Title IX Sexual Harassment Grievance Procedure*, a district must notify them of the name, office address, email address, and telephone number of district's Title IX Coordinator. 34 C.F.R. §106.8(a). 105 ILCS 5/10-20.69, added by P.A. 101-418, requires districts to maintain and implement an *age-appropriate* policy on sexual harassment that is included in the school district's student handbook, as well as on a district's website and, if applicable, other areas where such information is posted in each school. The law does not expressly state that the age-appropriate policy is for students; however, that is the most logical interpretation. In practice, most districts maintain a student handbook for each building. Because the law only requires one policy, this policy manages the age-appropriate requirement by directing age-appropriate explanations of the policy be included in the building-level student handbook(s). Student handbooks can be developed by the building principals, but should be reviewed and approved by the superintendent and school board.

The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/msh www.ilprincipals.org/resources/model-student-handbook.

¹⁰ If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state "Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator, Title IX Coordinator, or a Complaint Manager."

¹¹ "Nondiscrimination Coordinator or designee" is used where Title IX is potentially implicated. In contrast, if Title IX is likely not implicated then "Nondiscrimination Coordinator or a Complaint Manager or designee" is used (see next paragraph in policy text). If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, delete "~~Nondiscrimination~~" and insert "Title IX" in its place.

Reports That Involve Alleged Incidents of Sexual Abuse of a Child by School Personnel ¹²

An *alleged incident of sexual abuse* is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A(b), that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity.

Any complaint alleging an incident of sexual abuse shall be processed and reviewed according to policy 5:90, *Abused and Neglected Child Reporting*. In addition to reporting the suspected abuse, the complaint shall also be processed under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, or policy 2:260, *Uniform Grievance Procedure*.

Enforcement

Any District employee who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action up to and including discharge. Any third party who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any District student who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action, including but not limited to, suspension and expulsion consistent with the behavior policy. Any person making a knowingly false accusation regarding prohibited conduct will likewise be subject to disciplinary action.

Retaliation Prohibited

Retaliation against any person for bringing complaints or providing information about harassment is prohibited (see policies 2:260, *Uniform Grievance Procedure*, and 2:265, *Title IX Sexual Harassment Grievance Procedure*).

Students should report allegations of retaliation to the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.

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

¹² Required for districts located within a county served by an accredited Children's Advocacy Center (CAC). Delete this subhead if your school district is within a county not served by an accredited CAC. 105 ILCS 5/22-85, added by P.A. 101-531 (governing the investigation of an *alleged incident of sexual abuse* of any child within any Illinois counties served by a CAC). For a map of accredited CACs, and to identify a CAC that may serve your district, see www.childrensadvocacycentersofillinois.org/about/map. For further discussion see f/ns 14-16 in [sample](#) policy 5:90, *Abused and Neglected Child Reporting*.

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972; 34 C.F.R. Part 106.
105 ILCS 5/10-20.12, 5/10-22.5, 5/10-23.13, 5/27-1, and 5/27-23.7.
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.
23 Ill.Admin.Code §1.240 and Part 200.
Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).
Franklin v. Gwinnett Co. Public Schs., 503 U.S. 60 (1992).
Gebser v. Lago Vista Independent Sch. Dist., 524 U.S. 274 (1998).
West v. Derby Unified Sch. Dist. No. 260, 206 F.3d 1358 (10th Cir. 2000).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), [5:120 \(Employee Ethics; Code of Professional Conduct; and Conflict of Interest\)](#), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:240 (Conduct Code for Participants in Extracurricular Activities)

DRAFT

Students

School Admissions and Student Transfers To and From Non-District Schools ¹

Age [*Elementary or Unit Districts only*]

To be eligible for admission, a child must be five years old on or before September 1 of that school term.² A child entering first grade must be six years of age on or before September 1 of that school term.³ Based upon an assessment of a child's readiness to attend school, the District may permit him or her to attend school prior to these dates.⁴ A child will also be allowed to attend first grade based upon an assessment of his or her readiness if he or she attended a non-public preschool, continued his or her education at that school through kindergarten, was taught in kindergarten by an appropriately licensed teacher, and will be six years old on or before December 31.⁵ A child with exceptional needs who qualifies for special education services is eligible for admission at three years of age.⁶ Early entrance to kindergarten or first grade may also be available through Board policy 6:135, *Accelerated Placement Program*.^{7 8}

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

¹ State law requires some of the subject matter contained in this sample policy to be covered by policy and controls this policy's content. Boards must adopt a policy on school admissions (105 ILCS 5/10-21.2) and restricting a student from transferring from another school while under a suspension or expulsion from that school (105 ILCS 5/10-22.6). A *registration guidance document*, updated annually, is available from the Ill. State Board of Education (ISBE) at: www.isbe.net/Documents/guidance_reg.pdf.

² 105 ILCS 5/10-20.12. The district may, however, establish a kindergarten for children between the ages of 4 and 6 years old. 105 ILCS 5/10-20.19a and 5/10-22.18. Any child between the ages of 7 and 17 (unless the child has already graduated from high school) must attend public or private school, with certain exceptions allowed for physical and mental disability, lawful employment, or other reasons as specified by statute. 105 ILCS 5/26-1. The phrase "a child between the ages of 7 and 17" is liberally construed to fully carry out the true intent and meaning of the General Assembly (5 ILCS 70/1.01), which is to ensure that students graduate from high school (105 ILCS 5/26-1). Therefore, "the ages of 7-17" means a child is 17 until his or her 18th birthday.

³ Optional sentence.

⁴ 105 ILCS 5/10-20.12.

⁵ Id. Delete the first four sentences in this paragraph if the district operates a year-round school and use the following alternative:

To be eligible for admission, a child must be at least five years old within 30 days after the commencement of that school term. Based upon an assessment of the child's readiness to attend school, the District may permit him or her to attend school prior to this date. A child may also attend first grade based upon an assessment of his or her readiness if he or she attended a non-public preschool and continued his or her education at that school through kindergarten, was taught in kindergarten by an appropriately licensed teacher, and will attain age six within four months after the commencement of the term.

⁶ 105 ILCS 5/14-1.02 and 5/14-1.03a. An ISBE rule states: "Each school district shall be responsible for actively seeking out and identifying all children from birth through age 21 within the district (and those parentally-placed private school children for whom the district is responsible under 34 C.F.R. §300.131) who may be eligible for special education and related services." 23 Ill.Admin.Code §226.100. Note that after a child is determined to be eligible for special education services, the child must be placed in the appropriate program no later than the beginning of the next school semester. 105 ILCS 5/14-8.02, amended by P.A. 102-199, [eff. 7-1-22](#).

⁷ 105 ILCS 5/14A-17, Accelerated Placement Act (APA). For high school districts, delete this sentence and the cross reference to 6:135, *Accelerated Placement Program*. See 6:135, *Accelerated Placement Program*, and 6:135-AP, *Accelerated Placement Program Procedures*, for further detail.

Admission Procedure

All students must register for school each year on the dates and at the place designated by the Superintendent. Parents/guardians of students enrolling in the District for the first time must present:

1. A certified copy of the student's birth certificate. If a birth certificate is not presented, the Superintendent or designee shall notify in writing the person enrolling the student that within 30 days he or she must provide a certified copy of the student's birth certificate. A student will be enrolled without a birth certificate.⁹ When a certified copy of the birth certificate is presented, the school shall promptly make a copy for its records, place the copy in the student's permanent¹⁰ record, and return the certified copy to the person enrolling the child. If a person enrolling a student fails to provide a certified copy of the student's birth certificate, the Superintendent or designee shall immediately notify the local law enforcement agency, and shall also notify the person enrolling the student in writing that, unless he or she complies within ten days, the case will be referred to the local law enforcement authority for investigation. If compliance is not obtained within that ten-day period, the Superintendent or designee shall so refer the case. The Superintendent or designee shall immediately report to the local law enforcement authority any material received pursuant to this paragraph that appears inaccurate or suspicious in form or content.¹¹
2. Proof of residence, as required by Board policy 7:60, *Residence*.

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Attorneys disagree whether the APA conflicts with 105 ILCS 5/10-20.12 (*School year – School age*). See f/n 4 in sample policy 6:135, *Accelerated Placement Program* for a discussion about reconciling the APA and 105 ILCS 5/10-20.12. **Consult the board attorney for guidance.**

⁸ Districts should consider implementing specific and objective criteria for early admissions and address such issues as who pays the costs for assessments, etc. Using this exception defeats the age requirement rules because it only relies upon a child's readiness, regardless of his or her age.

⁹ Presenting a certified copy of a student's birth certificate is a missing children's law enforcement issue **that may not be used for denying enrollment**. See **Guidance Documents** subhead in 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*, for more information about enrollment and residency issues. Consult the board attorney if a student cannot produce a certified copy of his or her birth certificate and wishes to provide a passport, visa, or other governmental documentation of identity. To balance the tension between the missing children's laws reporting requirements and *Plyler v. Doe* (457 U.S. 202 (1982)), many attorneys advise not to report a student's failure to produce a birth certificate; however always consult the board attorney for assistance based upon the specific facts of the enrollment situation (see f/n 11 below).

¹⁰ 23 Ill.Admin.Code §375.10 states that the *student permanent record* shall include basic identifying information, including the student's name, birth date and place, and gender, and evidence required under 325 ILCS 50/5(b)(1).

¹¹ Two almost identical laws govern this requirement: Missing Children Records Act (325 ILCS 50/) and Missing Children Registration Law (325 ILCS 55/). We reconciled their differences as much as possible but chiefly used the language from the Registration Law because it has the clearest explanation. The statutory enforcement requirements, as nonsensical as they may seem, are quoted in the policy. **Important:** Schools cannot deny admission based upon immigration (illegal) status alone. Note that singling out foreign-looking students for visa requests is probably illegal discrimination. See *Plyler v. Doe*. See also f/n 18 below.

According to the Ill. State Police, a certified copy of the student's birth certificate is the only acceptable proof of the child's identity and age. 20 Ill.Admin.Code §1290.60(a). For more discussion about acceptable proof of identity, see f/n 1 in 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*. The Missing Children's Records Act requires schools to make prompt copies of these certified copies. 325 ILCS 50/5(b)(1). Once made, schools need not request another certified copy with respect to that child for any other year in which the child is enrolled in that school or other entity. *Id.* While the Act does not mandate where the copy should be kept, it is appropriate for placement in the student's temporary record. See 23 Ill.Admin.Code §375.10. The school person who receives the copy of the certified birth certificate should initial and date the document. That way, if there is a question or an investigation (which can happen even years after enrollment) there will not be an issue as to who received the document and the date it was processed.

A district must also *flag* a student's record on notification by the State police of the student's disappearance and report to the State police any request for a *flagged* student record. 325 ILCS 50/3, 50/5.

3. Proof of disease immunization or detection and the required physical examination, as required by State law and Board policy 7:100, *Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students*.¹²

The individual enrolling a student shall be given the opportunity to voluntarily state whether the student has a parent or guardian who is a member of a branch of the U.S. Armed Forces and who is either deployed to active duty or expects to be deployed to active duty during the school year.¹³ Students who are children of active duty military personnel transferring will be allowed to enter: (a) the same grade level in which they studied at the school from which they transferred, if the transfer occurs during the District's school year, or (b) the grade level following the last grade completed.¹⁴

Homeless Children

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce records normally required for enrollment.¹⁵ Board policy 6:140, *Education of Homeless Children*, and its implementing administrative procedure, govern the enrollment of homeless children.

Foster Care Students

The Superintendent will appoint at least one employee to act as a liaison to facilitate the enrollment and transfer of records of students in the legal custody of the Ill. Dept. of Children and Family Services (DCFS) when enrolling in or changing schools. [The District's liaison ensures that DCFS' Office of Education and Transition Services receives all written notices and records pertaining to students in the legal custody of DCFS as required by State law.](#)¹⁶

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¹² Each school must maintain records for each student that reflect compliance with the examinations and immunizations required by 105 ILCS 5/27-8.1 and 23 Ill.Admin.Code §1.530(a). A Tuberculosis skin test is required if the student lives in an area designated by the Ill. Dept. of Public Health as having a high incidence of Tuberculosis.

¹³ This paragraph is optional in the policy; it reflects the requirements of State and federal law. P.A. 99-30 repealed the Military Compact Act at 105 ILCS 5/22-65 because of the Educational Opportunity for Military Children Act (EOMCA, 105 ILCS 70/); this exact language is not contained in the recoded EOMCA.

¹⁴ Optional. The EOMCA further details enrollment and entrance requirements for children of active military personnel. 105 ILCS 70/33. After enrollment, the law allows a district to perform evaluations to ensure appropriate placement of the student. Course, program, graduation, extracurricular(s), and other placement options for this student population are further discussed in 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*.

¹⁵ Required by Education for Homeless Children Act (105 ILCS 45/) and the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11431 *et seq.*). See §11432(g)(3)(C)(i).

¹⁶ ~~Optional. Required by~~ 105 ILCS 5/10-20.598, ~~amended by P.A. 102-199 allows school boards to appoint liaisons for foster care students.~~ These liaisons must be licensed under Article 21B of the School Code. 105 ILCS 5/10-20.598, ~~amended by P.A. 102-199~~, directs how employees are prioritized for liaison appointment. Liaisons are "encouraged to build capacity and infrastructure within their school district to support students in the legal custody of the Department of Children and Family Services." ~~Schools are required to give DCFS liaisons certain notices, records, and meeting invitations. See 105 ILCS 5/10-20.77, added by P.A. 102-199 (notice and invitation to attend parent-teacher conferences and other meetings); 105 ILCS 5/10-21.8, amended by P.A. 102-199 (copies of correspondence and reports upon request of DCFS); 105 ILCS 5/13B-60.10 (notice and invitation to attend alternative learning opportunities program conference); 105 ILCS 5/14-8.02, amended by P.A. 102-199 (notices related to special education); 105 ILCS 10/, amended by P.A. 102-199 (student records). See 7:340-AP1, *School Student Records*, for more information regarding DCFS access to the student records of children in its legal custody. The law does not specifically require that a district's DCFS liaison perform these duties; this policy assigns them to the liaison because they logically fit within the responsibilities outlined in 105 ILCS 5/10-20.59, which Liaison responsibilities may include:~~

1. Streamlining the enrollment process for students in foster care;
2. Implementing student data tracking and monitoring mechanisms;
3. Ensuring that students in DCFS custody receive all school nutrition and meal programs available;

Student Transfers To and From Non-District Schools ¹⁷

A student may transfer into or out of the District according to State law and procedures developed by the Superintendent or designee. A student seeking to transfer into the District must serve the entire term of any suspension or expulsion, imposed for any reason by any public or private school, in this or any other state, before being admitted into the School District.

Foreign Students [High School or Unit Districts only] ¹⁸

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4. Coordinating student withdrawal from a school, record transfers, and credit recovery;
5. Becoming experts on the foster care system and State laws and policies in place that support students in DCFS custody;
6. Coordinating with child welfare partners;
7. Providing foster care-related information and training to the district;
8. Working with DCFS to help students maintain their school placement, if appropriate;
9. Reviewing student schedules to ensure students are on track to graduate;
10. Encouraging a successful transition into adulthood and post-secondary opportunities;
11. Encouraging involvement in extracurricular activities; and
12. Knowing what support is available within the district and community for students in DCFS custody.

¹⁷ 105 ILCS 5/2-3.13a requires each transferor (original) school to keep documentation of transfers in the student's record. It also requires "notification [by the transferee (recipient) school] of the transfer on or before July 31 following the school year during which the student withdraws from the transferor school or school district or the student shall be counted in the calculation of the transferor school's or school district's annual student dropout rate." ISBE rule, 23 Ill.Admin.Code §375.75(e), is consistent with this requirement. The rule also requires the transferring school or district to maintain any documentation of the student's transfer, including records indicating the school or school district to which the student transferred, in that student's temporary record.

Out-of-state transfer students, including children of military personnel, may use unofficial transcripts for admission to a school until official transcripts are obtained from the student's last school district. 105 ILCS 10/8.1 and 70/32). See also 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*.

A board has two basic options for students transferring into the district who are serving a suspension or expulsion. Under option one, it may comply with the minimum requirements of ~~section 105 ILCS 5/2-3.13a~~ by refusing to allow a student transferring from any public school to attend classes until the period of any suspension or expulsion has expired when the penalty was for: (1) knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act; (2) knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis; or (3) battering a staff member of the school. Under option two, a board may require a student who was suspended or expelled for *any* reason from any public or private school in this or any other state to complete the entire term of the suspension or expulsion before being admitted to the school district. The sample policy uses the second, more simple, more comprehensive alternative.

A board may adopt a policy providing that if a student is suspended or expelled for any reason from any school, anywhere, the student must complete the suspension's or expulsion's entire term in an alternative school program under Article 13A before being admitted into the school district if there is no threat to the safety of students or staff in the alternative program. 105 ILCS 5/2-3.13a and 5/10-22.6(g). If a board wants to provide for this alternative, it may add the following to either of the above options:

The Superintendent is authorized to allow a student who was suspended or expelled from any public or private school to be placed in an alternative school program established under Article 13A of the School Code for the remainder of the suspension or expulsion.

¹⁸ Generally, a citizen of a foreign country who wishes to enter the U.S. must first obtain either: (1) a nonimmigrant visa (for temporary stay for tourism, medical treatment, business, temporary work, or study), or (2) an immigrant visa for permanent residence. Common visas presented by foreign students are:

1. J-1 nonimmigrant visas for participants in educational and cultural exchange programs designated by the U.S. Dept. of State (DOS), Exchange Visitor Program, and Designation Staff. These students are enrolled provided they otherwise qualify for admission. For information about J-1 visas and the Exchange Visitor Program, see j1visa.state.gov/programs.

The District accepts foreign exchange students with a J-1 visa and who reside within the District as participants in an exchange program sponsored by organizations screened by administration. Exchange students on a J-1 visa are not required to pay tuition.¹⁹

Privately sponsored exchange students on an F-1 visa may be enrolled if an adult resident of the District has temporary guardianship, and the student lives in the home of that guardian. Exchange students on an F-1 visa are required to pay tuition at the established District rate.²⁰ F-1 visa student admission is limited to high schools, and attendance may not exceed 12 months.

The Board may limit the number of exchange students admitted in any given year. Exchange students must comply with District immunization requirements. Once admitted, exchange students become subject to all District policies and regulations governing students.

Re-enrollment²¹ [*High School or Unit Districts only*]

Re-enrollment shall be denied to any individual 19 years of age or above who has dropped out of school and who could not earn sufficient credits during the normal school year(s) to graduate before

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2. F-1 nonimmigrant student visa. F-1 visas are not issued for attendance at an elementary or middle school (K-8). Before obtaining an F-1 student visa, the individual must submit evidence that the school district has been reimbursed for the unsubsidized per capita cost of the education. These students are enrolled provided they otherwise qualify for admission. However, attendance at U.S. public high schools cannot exceed a total of 12 months.
3. B-2 visitor nonimmigrant visas. There is disagreement over whether these students must be enrolled tuition free. Their *visitor* visa is evidence of nonresident status. Call the district's attorney for guidance.
4. The qualified school-age child of an alien who holds another type of visa, i.e., A, E, H, I, L, etc., other than a visitor visa. These students are enrolled provided they otherwise qualify for admission. Likewise, dependents of foreign nationals on long-term visas are enrolled provided they otherwise qualify for admission.
5. No immigration documentation. *Plyler v. Doe*. A school cannot deny admission based upon immigration (illegal) status alone. Note that singling out foreign-looking students for visa requests is probably illegal discrimination. Thus, undocumented aliens are enrolled, provided they otherwise qualify for admission.
6. Immigrant visa. These students are enrolled provided they otherwise qualify for admission.

The Student and Exchange Visitor Information System (SEVIS) is an Internet-based system that provides tracking and monitoring, with access to accurate and current information on nonimmigrant students (F and M visas) and exchange visitors (J visa), and their dependents (F-2, M-2, and J-2). See §641, Illegal Immigration Reform and Immigrant Responsibility Act. Section 641 is an exception to the Family Educational Rights and Privacy Act. See 8 C.F.R. §214.1(h). SEVIS enables schools and program sponsors to transmit electronic information and event notifications, via the Internet, to the Dept. of Homeland Security (DHS) and the DOS throughout a student's or exchange visitor's stay. SEVIS will provide system alerts, event notifications, and reports to the end-user schools and programs, as well as for DHS and DOS offices.

According to federal regulations, students who apply for F-1, M-1, F-3, ~~J-1~~, or M-3 visas must pay a ~~\$100-fee, and students who apply for J-1 visas must pay a \$35 fee~~, to the DHS. The regulations describe when and how the fee is to be paid, who is exempt from the fee, and the consequences for failure to pay, 8 C.F.R. Parts 103, 214, and 299.

¹⁹ State law allows, but does not require, boards to waive nonresident tuition for these students. 105 ILCS 5/10-22.5a, amended by P.A. 102-126.

²⁰ Exchange students on F-1 visas must pay the full-unsubsidized public education costs before entering the U.S. 8 U.S.C. §1101. Boards may not waive the fee.

²¹ 105 ILCS 5/26-2(b). The requirements in this section are provided in State law, that is: (1) it is mandatory that a district deny re-enrollment as provided in this section; (2) it is permissive whether to enroll the individual in a district graduation incentives program or alternative learning opportunities program (although depending on circumstances, a student below the age of 20 may be entitled to enroll in a graduation incentives program); (3) it is mandatory to provide due process before denying re-enrollment; (4) it is mandatory to offer the individual who is denied re-enrollment counseling and to direct that person to alternative educational programs; and (5) it is mandatory that this section not apply to students eligible for special education.

105 ILCS 5/26-2(c) allows a district to deny enrollment to a student 17 years of age or older for one semester for failure to meet minimum academic or attendance standards if certain conditions are met. See sample policy 7:70, *Attendance and Truancy*.

his or her 21st birthday. However, at the Superintendent's or designee's discretion and depending on program availability, the individual may be enrolled in a graduation incentives program established under 105 ILCS 5/26-16 or an alternative learning opportunities program established under 105 ILCS 5/13B-1 (see 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*). Before being denied re-enrollment, the District will offer the individual due process as required in cases of expulsion under policy 7:210, *Expulsion Procedures*. A person denied re-enrollment will be offered counseling and be directed to alternative educational programs, including adult education programs that lead to graduation or receipt of a GED diploma. This section does not apply to students eligible for special education under the Individuals with Disabilities Education Improvement Act or accommodation plans under the Rehabilitation Act, Section 504.

LEGAL REF.: 8 U.S.C. §1101, Illegal Immigrant and Immigrant Responsibility Act of 1996.
20 U.S.C. §1232g, Family Educational Rights and Privacy Act.
20 U.S.C. §1400 et seq., Individuals With Disabilities Education Improvement Act.
29 U.S.C. §794, Rehabilitation Act of 1973, Section 504.
42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.
105 ILCS 5/2-3.13a, 5/10-20.12, [5/10-20.59](#), 5/10-22.5a, 5/14-1.02, 5/14-1.03a, 5/26-1, 5/26-2, 5/27-8.1.
105 ILCS 10/8.1, Ill. School Student Records Act.
105 ILCS 45/, Education for Homeless Children Act.
105 ILCS 70/, Educational Opportunity for Military Children Act.
325 ILCS 50/, Missing Children Records Act.
325 ILCS 55/, Missing Children Registration Law.
410 ILCS 315/2e, Communicable Disease Prevention Act.
20 Ill.Admin.Code Part 1290, Missing Person Birth Records and School Registration.
23 Ill.Admin.Code Part 226, Special Education.
23 Ill.Admin.Code Part 375, Student Records.

CROSS REF.: 4:110 (Transportation), 6:30 (Organization of Instruction), 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 6:135 (Accelerated Placement Program), 6:140 (Education of Homeless Children), 6:300 (Graduation Requirements), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students), 7:60 (Residence), 7:70 (Attendance and Truancy), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:340 (Student Records)

Students

Attendance and Truancy¹

Compulsory School Attendance²

This policy applies to individuals who have custody or control of a child: (a) between the ages of six (on or before September 1) and 17 years (unless the child has graduated from high school), or (b) who is enrolled in any of grades kindergarten through 12 in the public school regardless of age.

Subject to specific requirements in State law, the following children are not required to attend public school: (1) any child attending a private school (including a home school) or parochial school, (2) any child who is physically or mentally unable to attend school (including a pregnant student suffering medical complications as certified by her physician), (3) any child lawfully and necessarily employed, (4) any child over 12 and under 14 years of age while in confirmation classes, (5) any child absent because of religious reasons, including to observe a religious holiday, for religious instruction, or because his or her religion forbids secular activity on a particular day(s) or time of day, and (6) any child 16 years of age or older who is employed and is enrolled in a graduation incentives program.

The parent/guardian of a student who is enrolled must authorize all absences from school and notify the school in advance or at the time of the student's absence. A valid cause for absence includes illness (including mental or behavioral health of the student),³ observance of a religious holiday,

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¹ State law requires boards to adopt a policy covering some of the topics herein and controls this policy's content. 105 ILCS 5/22-920 (final citation pending), added by P.A. 102-157 and renumbered by P.A. 102-813; 23 Ill.Admin Code Part 207.5, requires a Any school receiving public funds to must develop and annually communicate to its students and their parents/guardians an absenteeism and truancy policy. *Id.* The Ill. Principals Association (IPA) maintains a handbook service that coordinates with PRESS material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/msh/.

This policy must be updated every two years and filed with the Ill. State Board of Education (ISBE) and the regional superintendent of schools [or Intermediate Service Center Executive Director, whichever is appropriate]. ~~Id.~~ 105 ILCS 5/22-92(b), added by P.A. 102-157 and renumbered by P.A. 102-813; 23 Ill.Admin.Code §207.30(a). 105 ILCS 5/3-0.01 states that any references to "regional superintendent" include the chief administrative officer of Intermediate Service Centers established under 105 ILCS 5/2-3.62. See the **Monitoring** subhead and f/n 21, below.

² 105 ILCS 5/26-2, addresses enrolled students below or over set compulsory attendance ages. The law also requires any persons having custody or control of a child who is enrolled in grades kindergarten through 12 in the public school to cause the child to attend school.

105 ILCS 5/26-1, amended by P.A.s 102-406, 102-266, and 102-321, and 102-981, eff. 1-1-23, contains the compulsory school age exemptions. Each listed exception is specifically included in the statute, except the reference to *home school*. See 7:40, *Nonpublic School Students, Including Parochial and Home-Schooled Students*, regarding assigning students who enroll from a non-public school. See 6:150, *Home and Hospital Instruction*, regarding providing instruction to a pregnant student or other student who is medically unable to attend school.

³ 105 ILCS 5/26-1 and 5/26-2a, amended by P.A.s. 102-266 and 102-321. A student may be absent for mental or behavioral health for up to five days without providing a medical note, and the student must be given an opportunity to make up any missed school work. *Medical note* is not defined, but the same portion of the statute discusses a student's inability to attend school due to a disability being certified by an Illinois licensed physician, chiropractic physician, advanced practice registered nurse, or physician assistant; presumably, any of these individuals could provide a *medical note*. After the second mental health day used, the student may be referred to the appropriate school support personnel. *Id.* See policy 7:250, *Student Support Services*.

death in the immediate family, [attendance at a civic event](#),⁴ family emergency, other situations beyond the control of the student as determined by the Board, voting pursuant to policy 7:90, *Release During School Hours* (10 ILCS 5/7-42 and 5/17-15), other circumstances that cause reasonable concern to the parent/guardian for the student’s mental, emotional, or physical health or safety, or other reason as approved by the Superintendent or designee.⁵ Students absent for a valid cause may make up missed homework and classwork assignments in a reasonable timeframe. ⁶

Absenteeism and Truancy Program

The Superintendent or designee shall manage an absenteeism and truancy program in accordance with the School Code and School Board policy. The program shall include but not be limited to:

1. A protocol for excusing a student from attendance who is necessarily and lawfully employed. The Superintendent or designee is authorized to determine when the student’s absence is justified. ⁷
2. A protocol for excusing a student in grades 6 through 12 from attendance to sound *Taps* at a military honors funeral held in Illinois for a deceased veteran. ⁸

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⁴ [105 ILCS 5/26-1 and 5/26-2a, amended by P.A. 102-981, eff. 1-1-23. Subject to ISBE guidelines, a middle or high school student shall be permitted one school day-long excused absence per school year to engage in a civic event, defined as “an event sponsored by a non-profit organization or governmental entity that is open to the public. Civic event includes, but is not limited to, an artistic or cultural performance or educational gathering that supports the mission of the sponsoring non-profit organization. Schools may require students to provide an appropriate administrator with reasonable advance notice of the intended absence and documentation of participation.](#)

⁵ 105 ILCS 5/22-920(a)(1) (~~final citation pending~~), added by P.A. 102-157 [and renumbered by P.A. 102-813](#), requires a policy with a definition of valid cause for absence in accordance with 105 ILCS 5/26-2a. These reasons are in 105 ILCS 5/26-2a except that (1) “other reason as approved by the Superintendent,” and (2) absences for students to vote authorized by 10 ILCS 5/7-42 and 5/17-15, amended by P.A. 101-624, were added. An ISBE rule requires that the absenteeism and truancy policy defines valid causes for absence. 23 Ill.Admin.Code §1.290.

For elementary districts, delete the following phrase from the second sentence of this paragraph: “~~voting pursuant to policy 7:90, Release During School Hours (10 ILCS 5/7-42 and 5/17-15),~~” and delete 7:90, *Release During School Hours*, from the Cross References.

For high school and unit districts that do not wish to include the **Voting** subhead in policy 7:90, *Release During School Hours*, amend the second sentence of this paragraph as follows: “~~policy 7:90, Release During School Hours (the Election Code, 10 ILCS 5/7-42 and 5/17-15),~~” and delete 7:90, *Release During School Hours* from the Cross References.

⁶ See f/n 3. In addition, 105 ILCS 5/10-20.783 (~~final citation pending~~), added by P.A. 102-471 [and renumbered by P.A. 102-813](#), requires a written policy related to absences and missed homework or classwork assignments as a result of or related to a student’s pregnancy. It makes sense to apply such a policy to all students who are absent for a valid cause.

⁷ Any child “necessarily and lawfully employed” may be exempted from attendance by the superintendent “on certification of the facts by and the recommendation of the school board.” 105 ILCS 5/26-1. The policy’s language serves to delegate this “certification of the facts” to the superintendent or designee. The following option allows a board to consider and include specific criteria in the policy:

A student may be excused, at the Superintendent’s discretion, when: (1) the student has a last period study hall, (2) the parent/guardian provides written permission, (3) the student’s employer provides written verification of employment, (4) the student provides evidence of a valid work permit, or (5) other reason deemed justifiable by the Superintendent.

Child Labor laws include: 29 C.F.R. Part 570 (minimum age standards, occupations, conditions, etc.); 820 ILCS 205/, amended by P.A. 102-32 (child labor laws); 56 Ill.Admin.Code Part 250 (child labor regulations). [To streamline the employment certificate process for minors, the Ill. Dept. of Labor \(IDOL\) has a paperless certification system for districts to provide IDOL with the name and contact information of the superintendent or designee as the issuing officer. The issuing officer will then be granted access to electronically complete and submit either the IDOL’s Employment Certificate Form or Temporary Employment Certificate Form, at: \[www2.illinois.gov/idol/Laws-Rules/FLS/Pages/Employment-Certificates-Minors.aspx\]\(http://www2.illinois.gov/idol/Laws-Rules/FLS/Pages/Employment-Certificates-Minors.aspx\).](#)

3. A protocol for excusing a student from attendance on a particular day(s) or at a particular time of day when his/her parent/guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or combat-support postings. ⁹
4. A process to telephone, within two hours after the first class, the parents/guardians of students in grade 8 or below who are absent without prior parent/guardian notification. ¹⁰
5. A process to identify and track students who are truants, chronic or habitual truants, or truant minors as defined in 105 ILCS 5/26-2a.
6. A description of diagnostic procedures for identifying the cause(s) of a student's unexcused absenteeism, including interviews with the student, his or her parent(s)/guardian(s), and staff members or other people who may have information about the reasons for the student's attendance problem. ¹¹
7. The identification of supportive services that may be offered to truant, chronically truant, or chronically absent students, including parent-teacher conferences, student and/or family counseling, or information about community agency services.¹² See Board policy 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*.
8. A process for the collection and review of chronic absence data and to:
 - a. Determine what systems of support and resources are needed to engage chronically absent students and their families, and

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⁸ 105 ILCS 5/26-1. A student must notify the building principal or other administrator at least two days prior to the absence providing the date, time, and location of the military honors funeral. This requirement may be waived if the student did not receive notice at least two days in advance, but the student shall notify the administration as soon as possible of the absence.

A student whose absence is excused to sound *Taps* shall be counted in attendance for purposes of calculating the average daily attendance of students in the district. The district must allow the student reasonable time to make up school work and if school work is satisfactorily completed, the day of absence is counted as an attendance day for the student.

⁹ 105 ILCS 5/26-1. Such a student must be granted five days of excused absences in any school year and, at the board's discretion, may be granted additional excused absences to visit the student's parent/guardian. The student and his/her parent/guardian are responsible for obtaining assignments from the student's teacher prior to any period of excused absence and for ensuring that such assignments are completed by the student prior to his/her return to school from the excused absence period. *Id.*

¹⁰ This notification is required by 105 ILCS 5/26-3b.

¹¹ 105 ILCS 5/22-920(a)(2) ~~(final citation pending)~~, added by P.A. 102-157 and renumbered by P.A. 102-813; 23 Ill.Admin.Code §1.290(b)(2).

¹² *Id.* at (3) ~~(final citation pending)~~, added by P.A. 102-157 and renumbered by P.A. 102-813; 23 Ill.Admin.Code §1.290(b)(3). The School Code references to dropout prevention include: 105 ILCS 5/26-3a (regional superintendent activities and annual report); 105 ILCS 5/10-20.25a (annual report by boards); and 105 ILCS 5/1A-4(E), amended by P.A. 102-894 (ISBE report).

- b. Encourage the habit of daily attendance and promote success. ¹³
9. Reasonable efforts to provide ongoing professional development to teachers, administrators, Board members, school resource officers, and staff on the appropriate and available supportive services for the promotion of student attendance and engagement. ¹⁴
10. A process to request the assistance and resources of outside agencies, such as, the juvenile officer of the local police department or the truant office of the appropriate Regional Office of Education, if truancy continues after supportive services have been offered. ¹⁵
11. A protocol for cooperating with non-District agencies including County or municipal authorities, the Regional Superintendent, truant officers, the Community Truancy Review Board, and a comprehensive community based youth service agency. Any disclosure of school student records must be consistent with Board policy 7:340, *Student Records*, as well as State and federal law concerning school student records. ¹⁶
12. An acknowledgement that no punitive action, including out-of-school suspensions, expulsions, or court action, shall be taken against a truant minor for his or her truancy unless available supportive services and other school resources have been provided to the student. ¹⁷

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¹³ 105 ILCS 5/22-920(a)(4) (~~final citation pending~~), added by P.A. 102-157 and renumbered by P.A. 102-813, requires the incorporation of provisions relating to chronic absenteeism in accordance with 105 ILCS 5/26-18. 105 ILCS 5/26-18 requires districts to collect and review chronic absence data and determine what systems of support and resources are needed to engage chronically absent students and their families to encourage the habit of daily attendance and promote success. 105 ILCS 5/26-18(c). The review must include an analysis of chronic absence data from each attendance center. *Id.* Districts are also encouraged to: (1) provide a system of support to students at risk of reaching or exceeding chronic absence levels, i.e., those available through the Illinois Multi-tiered Systems of Support Network; and (2) make resources available to families, i.e., those available through ISBE's Family Engagement Framework, to support and engage students and their families. 105 ILCS 5/26-18(d). *Chronic absence* means "absences that total 10% or more of school days of the most recent school year, including absences with and without valid cause, as defined in Section 26-2a of this Code, and out-of-school suspensions for an enrolled student." 105 ILCS 5/26-18(a). In contrast, a *chronic or habitual truant* is "a child who is subject to compulsory school attendance and who is absent without valid cause from such attendance for 5% or more of the previous 180 regular attendance days." 105 ILCS 5/26-2a.

¹⁴ 105 ILCS 5/10-22.6(c-5).

¹⁵ Use this alternative for districts in suburban Cook County: replace "Regional Office of Education" with "appropriate Intermediate Service Center."

¹⁶ 105 ILCS 5/26-9 requires school officers and superintendents to assist truant officers. A minor who is reported by the regional superintendent as a chronic truant may be adjudicated a "truant minor in need of supervision" if the minor declines or refuses to fully participate in truancy intervention services. 705 ILCS 405/3-33.5, amended by P.A. 102-456.

Counties may regulate truants by ordinance and impose fines and/or community services on truants or, if the truant is under 10 years of age, on the parent or custodian. 55 ILCS 5/5-1078.2. Municipalities may regulate truants by ordinance and impose fines and/or community services on truants or, if the truant is under 13 years of age, on the parent or custodian. 65 ILCS 5/11-5-9. Local officials or authorities that enforce, prosecute, or adjudicate municipal ordinances adopted under 65 ILCS 5/11-5-9, or that work with school districts to address truancy problems, are designated as: (a) part of the juvenile justice system, established by the Juvenile Court Act of 1987, and (b) *juvenile authorities* within the definition set forth in subsection (a)(6.5) of Section 10-6 of the Ill. School Student Records Act. 105 ILCS 10/6(a)(6.5). *Id.* **A superintendent should consult with the board attorney before disclosing school student records to non-district entities.** See 7:340-AP1, *School Student Records*, for a sample procedure for release of such records to juvenile authorities.

¹⁷ 105 ILCS 5/26-12 prohibits punitive action "unless available supportive services and other school resources have been provided to the student." In addition, "a truant minor may not be expelled for nonattendance unless he or she has accrued 15 consecutive days of absences without valid cause and the student cannot be located by the school district or the school district has located the student but cannot, after exhausting all available supportive services, compel the student to return to school." *Id.*

13. The criteria to determine whether a student's non-attendance is due to extraordinary circumstances shall include economic or medical necessity or family hardship and such other criteria that the Superintendent believes qualifies. ¹⁸

[For high school and unit districts only]

14. A process for a 17-year-old resident to participate in the District's various programs and resources for truants.¹⁹ The student must provide documentation of his/her dropout status for the previous six months. A request from an individual 19 years of age or older to re-enroll after having dropped out of school is handled according to provisions in 7:50, *School Admissions and Student Transfers To and From Non-District Schools*.
15. A process for the temporary exclusion of a student 17 years of age or older for failing to meet minimum attendance standards according to provisions in State law. A parent/guardian has the right to appeal a decision to exclude a student. ²⁰

Monitoring ²¹

Pursuant to State law and policy 2:240, *Board Policy Development*, the Board updates this policy at least once every two years. The Superintendent or designee shall assist the Board with its update.

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¹⁸ 105 ILCS 5/26-3a requires the district to "establish, in writing, a set of criteria for use by the local superintendent of schools in determining whether a pupil's failure to attend school is the result of extraordinary circumstances, including but not limited to economic or medical necessity or family hardship."

This statute also requires the "clerk or secretary" of the board to quarterly report to the regional superintendent and Secretary of State the identity of students who were removed from the regular attendance roll, exclusive of transferees, because they were expelled; have withdrawn; left school; withdrew due to extraordinary circumstances; have re-enrolled in school since their names were removed from the attendance rolls; were certified to be chronic or habitual truants; or were previously certified as chronic or habitual truants who have resumed regular school attendance. The statute provides that the status of a driver's license or instructional permit will be jeopardized for a student who is the subject of this notification because of non-attendance unless the non-attendance is due to extraordinary circumstances as determined by the local district. State Superintendent Koch announced in his *Weekly Message*, 8-28-07, see **Funding & Disbursements** subhead, p.2, at: www.isbe.net/Documents/Superintendent_Weekly_Message/message_082807.pdf, that ISBE is delaying implementing this statute based upon legal guidance from the U.S. Dept. of Education's Family Policy Compliance Office that its implementation would violate the federal Family Educational Rights and Privacy Act.

¹⁹ A district must allow this participation; the length of the drop-out period and the documentation requirement contained in the next sentence are permissive. 105 ILCS 5/26-14.

²⁰ Optional, but provided in 105 ILCS 5/26-2(c)(3); ISBE's rule controls the appeal process, 23 Ill.Admin.Code §1.242.

²¹ 105 ILCS 5/22-92(b), added by P.A. 102-157 and renumbered by P.A. 102-813. Every two years this policy must be updated and, even if no updates are made, filed with ISBE and the regional superintendent of schools [or Intermediate Service Center Executive Director, whichever is appropriate]. Id; 23 Ill.Admin.Code §207.30. The policy must contain all requirements of 105 ILCS 5/22-92, indicate the date of adoption (by month, day, and year) and any revision dates, and be filed electronically by September 30 each review year through ISBE's Web Application Security (IWAS) system. 23 Ill.Admin.Code §§207.20(a), 207.30(a). If, after review and re-evaluation of the policy, the district determines that no updates are necessary, either a copy of board minutes clearly indicating the policy was re-evaluated and no changes were deemed necessary or a signed statement from the board president indicating the policy was re-evaluated and no changes were deemed necessary must be submitted to IWAS. 23 Ill.Admin.Code §207.30(a)(3). ISBE has stated that for districts that update the adoption date listed on a policy whenever the policy is updated, the date of adoption is sufficient to also indicate the revision date. See ISBE *Absenteeism and Truancy Policy FAQ*, at: www.isbe.net/Documents/Absenteeism-Truancy-Policy-FAQ.pdf.

LEGAL REF.: 105 ILCS 5/[22-92](#) and [5/26-1](#) through 18.
705 ILCS 405/3-33.5, Juvenile Court Act of 1987.
23 Ill.Admin.Code §§1.242 and ~~1.290~~[Part 207](#).

CROSS REF.: 5:100 (Staff Development Program), 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 6:150 (Home and Hospital Instruction), 7:10 (Equal Educational Opportunities), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:80 (Release Time for Religious Instruction/Observance), 7:90 (Release During School Hours), 7:190 (Student Behavior), 7:340 (Student Records)

DRAFT

Students

Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students ¹

Required Health Examinations and Immunizations

A student's parents/guardians shall present proof that the student received a health examination, with proof of the immunizations against, and screenings for, preventable communicable diseases, as required by the Illinois Department of Public Health (IDPH), within one year prior to:

1. Entering kindergarten or the first grade;²
2. Entering the sixth and ninth grades;³ and
3. Enrolling in an Illinois school, regardless of the student's grade (including nursery school, special education, Head Start programs operated by elementary or secondary schools, and students transferring into Illinois from out-of-state or out-of-country).⁴

Proof of immunization against meningococcal disease is required for students in grades 6 and 12.⁵

As required by State law:

1. Health examinations must be performed by a physician licensed to practice medicine in all of its branches, an advanced practice registered nurse, or a physician assistant who has been delegated the performance of health examinations by a supervising physician.⁶
2. A diabetes screening is a required part of each health examination; diabetes testing is not required.⁷
3. An age-appropriate developmental screening and an age-appropriate social and emotional screening are required parts of each health examination.⁸ A student will not be excluded from

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¹ State or federal law controls this policy's content. The policy restates 105 ILCS 5/27-8.1, amended by P.A.s ~~100-513, 100-977, and~~ 101-643. Immunization requirements are found in 77 Ill.Admin.Code §665.240. A Tuberculosis skin test is required if the student lives in an area designated by the Ill. Dept. of Public Health (IDPH) as having a high incidence of Tuberculosis. See also *Questions & Answers Regarding School Health Requirements/Record Issues*, revised May 2013, and available at: www.dhs.state.il.us/onenetlibrary/27897/documents/schoolhealth/faq_2013.pdf.

² 105 ILCS 5/27-8.1(1); 77 Ill.Admin.Code §§665.140 and 665.240 et seq.

³ Id.

⁴ Id. If grade levels are not assigned, examinations must be completed within one year prior to the school year in which the child reaches the ages of five, 11, and 15. 77 Ill.Admin.Code §665.140(b).

⁵ 410 ILCS 315/1.10; 77 Ill.Admin.Code §665.240(l). For students attending school programs where grade levels (kindergarten through 12) are not assigned, including special education programs, students must show proof that they have received one dose of meningococcal conjugate vaccine in the school year in which the child reaches age 11 and a second dose in the school year in which the child reaches age 16 (but if the first dose is administered when the child is 16 years of age or older, only one dose is required). Students eligible to remain in public school beyond grade 12 (special education) shall meet the requirements for 12th grade.

⁶ 105 ILCS 5/27-8.1(2), ~~amended by P.A. 100-513;~~ 77 Ill.Admin.Code §665.130 et seq.

⁷ Id. at ~~f/n 6 above~~ 105 ILCS 5/27-8.1(2); ~~and~~ 77 Ill.Admin.Code §665.700 et seq.

⁸ 105 ILCS 5/27-8.1(2); 77 Ill.Admin.Code Part 664, ~~amended by P.A.s 100-513 and 100-1011. The IDPH is to develop rules to implement these new screening requirements and revise the Child Health Examination form. Id.~~ The health care provider must only record whether or not the social and emotional screening was completed.

school due to his or her parent/guardian's failure to obtain a developmental screening or a social and emotional screening.⁹

4. Before admission and in conjunction with required physical examinations, parents/guardians of children between the ages of one and seven years must provide a statement from a physician that their child was *risk-assessed* or screened for lead poisoning.¹⁰
5. The IDPH will provide all students entering sixth grade and their parents/guardians information about the link between human papillomavirus (HPV) and HPV-related cancers and the availability of the HPV vaccine.¹¹
6. The District will provide informational materials regarding influenza, influenza vaccinations, meningococcal disease, and meningococcal vaccinations developed, provided, or approved by the IDPH when it provides information on immunizations, infectious diseases, medications, or other school health issues to students' parents/guardians.¹²

Unless an exemption or extension applies, the failure to comply with the above requirements by October 15 of the current school year will result in the student's exclusion from school until the required health forms are presented to the District.¹³ New students who register after October 15 of

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⁹ 105 ILCS 5/27-8.1(2.5); [77 Ill.Admin.Code §664.140](#). Item #3 may be supplemented with any of the following options:

- Option 1:** If proof of the developmental screening or the social and emotional screening portions of the health examination are not presented [by October 15 of the current school year](#), qualified school support personnel may, with a parent/guardian's consent, offer the screenings to the child.
- Option 2:** Once a student presents proof that he or she received a developmental screening or a social and emotional screening, the school may, with a parent/guardian's consent, make available appropriate school personnel to work with the parent/guardian, child, and provider who signed the screening form to obtain any appropriate evaluations and services.
- Option 3:** (The use of both Option 1 and 2.)
 - a. If proof of the developmental screening or the social and emotional screening portions of the health examination are not presented [by October 15 of the current school year](#), qualified school support personnel may, with a parent/guardian's consent, offer the screenings to the child.
 - b. Once a student presents proof that he or she received a developmental screening or a social and emotional screening, the school may, with a parent/guardian's consent, make available appropriate school personnel to work with the parent/guardian, child, and provider who signed the screening form to obtain any appropriate evaluations and services.

Note: Even if the district does not offer the above optional services, consult the board attorney about whether the presence of developmental or social and emotional screening information on the Child Health Examination form triggers child find obligations under the Individuals with Disabilities Education Act and/or Section 504 of the Rehabilitation Act of 1973.

¹⁰ Required by 410 ILCS 45/7.1. Physicians are required to screen children over 7 years of age for lead poisoning when, in the physician's judgment, a child is at risk. 410 ILCS 45/6.2, ~~amended by P.A. 100-513~~.

¹¹ This sentence restates the requirement in the Communicable Disease Prevention Act regarding HPV-related cancer prevention. 410 ILCS 315/2e, ~~amended by P.A. 100-741~~.

¹² 105 ILCS 5/27-8.1(8.5), ~~added by P.A. 100-977~~.

¹³ 105 ILCS 5/27-8.1(5), amended by P.A. 101-513, requires compliance by October 15 unless a district establishes an earlier date with 60 days' notice. If an earlier date is established, replace "October 15" in this paragraph with the earlier locally established date. During any student's exclusion from school for non-compliance with this policy, the student's parents/guardians shall be considered in violation of 105 ILCS 5/26-1 and subject to any penalty imposed by 105 ILCS 5/26-10, as provided in 105 ILCS 5/27-8.1(5). 105 ILCS 5/27-8.1(2.5) exempts developmental or social and emotional screenings from the exclusion from school requirement.

the current school year shall have 30 days following registration to comply with the health examination and immunization regulations.¹⁴ If a medical reason prevents a student from receiving a required immunization by October 15, the student must present, by October 15, an immunization schedule and a statement of the medical reasons causing the delay.¹⁵ The schedule and statement of medical reasons must be signed by the physician, advanced practice registered nurse, physician assistant, or local health department responsible for administering the immunizations.

A student transferring from out-of-state who does not have the required proof of immunizations by October 15 may attend classes only if he or she has proof that an appointment for the required vaccinations is scheduled with a party authorized to submit proof of the required vaccinations.¹⁶ If the required proof of vaccination is not submitted within 30 days after the student is permitted to attend classes, the student may no longer attend classes until proof of the vaccinations is properly submitted.¹⁷

Eye Examination ¹⁸

Parents/guardians are encouraged to have their children undergo an eye examination whenever health examinations are required.¹⁹

Parents/guardians of students entering kindergarten or an Illinois school for the first time shall present proof before October 15 of the current school year that the student received an eye examination within one year prior to entry of kindergarten or the school. A physician licensed to practice medicine in all of its branches, or a licensed optometrist, must perform the required eye examination.

If a student fails to present proof by October 15, the school may hold the student's report card until the student presents proof: (1) of a completed eye examination, or (2) that an eye examination will take place within 60 days after October 15. The Superintendent or designee shall ensure that

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Note: 77 Ill.Admin.Code §665.240(n) states "It is not the intent of this Part that any child whose parents comply with the intent of this Part, the Act or the School Code should be excluded from a child care facility or school. A child or student shall be considered in compliance with the law if there is evidence of the intent to comply. Evidence may be: 1) a signed statement from a health care provider that he or she has begun, or will begin, the necessary immunization procedures; or 2) the parent's or legal guardian's written consent for the child's participation in a school or other community immunization program." Consult with the board attorney about the impact this regulation may have on the district's ability to and procedures for excluding students for non-compliance with this policy.

¹⁴ This sentence is optional. The timeframe of 30 days is a matter of local discretion except that out-of-state transfer students who fail to provide proof of the required vaccinations after 30 days must be excluded until such proof is properly submitted. 105 ILCS 5/27-8.1(5), ~~amended by P.A. 100-513~~. Consult the board attorney about establishing timeframes other than 30 days.

¹⁵ This sentence and the following sentence restate 105 ILCS 5/27-8.1(5), ~~amended by P.A. 100-513~~.

¹⁶ *Id.* The special treatment of out-of-state transfer students resulted from the enactment of the Educational Opportunity for Military Children Act, 105 ILCS 70/. There are no more sunset dates in this law, which eliminates its constituents' need to continually revisit the law and extend its effective dates.

¹⁷ 105 ILCS 5/27-8.1, amended by P.A.s ~~100-513, 100-977, and~~ 101-643.

¹⁸ Required by 105 ILCS 5/27-8.1(1.10), amended by P.A. 101-643, and 5/27-8.1(2). The IDPH's rules are published at 77 Ill.Admin.Code §665.610 *et seq.* §§665.150 and 630 prescribe the statewide eye examination report form, available at: www.idph.state.il.us/HealthWellness/EyeExamReport.pdf or 77 Ill.Admin.Code §665, Appendix A.

¹⁹ While 105 ILCS 5/27-8.1 requires eye examinations for students entering kindergarten or an Illinois school for the first time, it still encourages parents/guardians to have their children undergo eye examinations at the same points in time as their required health examinations. The IDPH must require that individuals conducting vision screenings give a child's parent/guardian a written notification stating (105 ILCS 5/27-8.1(2)):

Vision screening is not a substitute for a complete eye and vision evaluation by an eye doctor. Your child is not required to undergo this vision screening if an optometrist or ophthalmologist has completed and signed a report form indicating that an examination has been administered within the previous 12 months.

parents/guardians are notified of this eye examination requirement in compliance with the rules of the IDPH. Schools shall not exclude a student from attending school due to failure to obtain an eye examination.

Dental Examination ²⁰

All children in kindergarten and the second, sixth, and ninth grades must present proof of having been examined by a licensed dentist before May 15 of the current school year in accordance with rules adopted by the IDPH.

If a child in the second, sixth, or ninth grade fails to present proof by May 15, the school may hold the child's report card until the child presents proof: (1) of a completed dental examination, or (2) that a dental examination will take place within 60 days after May 15. The Superintendent or designee shall ensure that parents/guardians are notified of this dental examination requirement at least 60 days before May 15 of each school year.

Exemptions ²¹

In accordance with rules adopted by the IDPH, a student will be exempted from this policy's requirements for:

1. Religious grounds, if the student's parents/guardians present the IDPH's Certificate of Religious Exemption form to the Superintendent or designee. When a Certificate of Religious Exemption form is presented, the Superintendent or designee shall immediately inform the parents/guardians of exclusion procedures pursuant to Board policy 7:280, *Communicable and Chronic Infectious Disease*, and State rules if there is an outbreak of one or more diseases from which the student is not protected. ²²
2. Health examination or immunization requirements on medical grounds, if the examining physician, advanced practice registered nurse, or physician assistant provides written verification.
3. Eye examination requirement, if the student's parents/guardians show an undue burden or lack of access to a physician licensed to practice medicine in all of its branches who provides eye examinations or a licensed optometrist.
4. Dental examination requirement, if the student's parents/guardians show an undue burden or a lack of access to a dentist.

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²⁰ Required by 105 ILCS 5/27-8.1(1.5), amended by P.A.s ~~100-829~~ and 101-643. The IDPH's rules are published at 77 Ill.Admin.Code §665.410 et seq. §§665.150 and 430 prescribe the statewide dental examination report form, available at: www.idph.state.il.us/HealthWellness/oralhlth/DentalExamProof10.pdf or 77 Ill.Admin.Code §665, Appendix D.

²¹ Id.; 105 ILCS 5/27-8.1(1.10), amended by P.A. 101-643, and 5/27-8.1(8), ~~amended by P.A. 100-513~~.

²² Id.; 77 Ill.Admin.Code §665.510. The Certificate of Religious Exemption form is available on IDPH's website at: www.dph.illinois.gov/sites/default/files/forms/religious-exemption-form-081815-040816.pdf <https://dph.illinois.gov/content/dam/soi/en/web/idph/files/forms/religious-exemption-form-081815-040816.pdf>. To direct parents/guardians to the detailed exclusionary requirements pursuant to 77 Ill.Admin.Code Part 690, see 7:280-E2, *Exhibit - Reporting and Exclusion Requirements for Common Communicable Diseases*. The IDPH maintains a helpful school health communicable diseases chart detailing mode of transmission, symptoms, incubation period, period of communicability, criteria for exclusion from school, reporting requirements, and prevention and control measures at: www.dph.illinois.gov/sites/default/files/publications/commchartschool-032817.pdf <https://dph.illinois.gov/content/dam/soi/en/web/idph/files/publications/commchartschool-032817.pdf>.

Homeless Child

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce immunization and health records normally required for enrollment.²³ School Board policy 6:140, *Education of Homeless Children*, governs the enrollment of homeless children.

- LEGAL REF.: 42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.
105 ILCS 5/27-8.1 and 45/1-20.
410 ILCS 45/7.1, [Lead Poisoning Prevention Act](#).
~~410 ILCS and~~ 315/2e, [Communicable Disease Prevention Act](#).
23 Ill.Admin.Code §1.530.
[77 Ill. Admin.Code Part 664, Socio-Emotional and Developmental Screening](#).
77 Ill.Admin.Code Part 665, [Child and Student Health Examination and Immunization](#).
77 Ill.Admin.Code Part 690, [Control of Communicable Diseases](#).
- CROSS REF.: 6:30 (Organization of Instruction), 6:140 (Education of Homeless Children), 6:180 (Extended Instructional Programs), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:280 (Communicable and Chronic Infectious Disease)

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²³ Required by 105 ILCS 45/1-20 (Education for Homeless Children Act). Also required by the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11432(g)(3)(C)(i).

Students

Prevention of and Response to Bullying, Intimidation, and Harassment ¹

Bullying, intimidation, and harassment diminish a student's ability to learn and a school's ability to educate. Preventing students from engaging in these disruptive behaviors and providing all students equal access to a safe, non-hostile learning environment are important District goals.

Bullying on the basis of actual or perceived race, color, national origin, military status, unfavorable discharge status from the military service, sex, sexual orientation, gender identity, gender-related identity or expression, ancestry, age, religion, physical or mental disability, order of protection status, status of being homeless, or actual or potential marital or parental status, including pregnancy, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic **is prohibited** in each of the following situations: ²

1. During any school-sponsored education program or activity.
2. While in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities.
3. Through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment.
4. Through the transmission of information from a computer that is accessed at a nonschool-related location, activity, function, or program or from the use of technology or an electronic device that is not owned, leased, or used by the School District or school if the bullying causes a substantial disruption to the educational process or orderly operation of a school.

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¹ All districts must have a policy on bullying, monitor it, review and re-evaluate it, and file it with the Ill. State Board of Education (ISBE) every two years, no later than September 30 of the review year (see f/n 16, below). 105 ILCS 5/27-23.7, amended by P.A. 102-894; 23 Ill.Admin.Code §1.295. The policy must contain all requirements of 105 ILCS 5/27-23.7, indicate the date of adoption (by month, day, and year), and be filed electronically each review year through ISBE's IWAS system. 23 Ill.Admin.Code §1.295(b), (c). If a district fails to file its policy by the deadline or submits a deficient policy, ISBE will provide a written request for filing and provide the district with technical assistance and resources to assist it in meeting bullying policy requirements and, as appropriate, notify the district's regional office of education or intermediate service center. 105 ILCS 5/27-23.7(d), amended by P.A. 102-894; 23 Ill.Admin.Code §1.295(e). If the district still fails to file its policy within 14 days of receipt of ISBE's written request, ISBE shall issue a letter of non-compliance (23 Ill.Admin.Code §1.295(e)(3)) and publish notice of non-compliance on its website (105 ILCS 5/27-23.7(d)).

This sample policy's first paragraph allows a school board to consider its goals for preventing bullying and remedying its consequences; it may be amended.

In addition to a bullying prevention policy, all districts must have a policy on student behavior. 105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280. Boards must, in consultation with their parent-teacher advisory committees and other community-based organizations, address aggressive behavior, including bullying, in their student behavior policy. See sample policy 7:190, *Student Behavior*; 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. See f/n ~~9+0~~, below.

² This paragraph and its subparts 1-4 are from the bullying prevention statute. 105 ILCS 5/27-23.7(a); see also 775 ILCS 5/1-103 and 23 Ill.Admin.Code §1.240. The protected statuses are mandated by the bullying prevention statute; the list of protected statuses is identical to the list in sample policy 7:20, *Harassment of Students Prohibited*.

This paragraph (item #4) applies only when a school administrator or teacher receives a report that bullying through this means has occurred; it does not require staff members to monitor any nonschool-related activity, function, or program.

Definitions from 105 ILCS 5/27-23.7 ³

Bullying includes *cyberbullying* and means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

1. Placing the student or students in reasonable fear of harm to the student's or students' person or property;
2. Causing a substantially detrimental effect on the student's or students' physical or mental health;
3. Substantially interfering with the student's or students' academic performance; or
4. Substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school.

Bullying may take various forms, including without limitation one or more of the following: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying. This list is meant to be illustrative and non-exhaustive.

Cyberbullying means bullying through the use of technology or any electronic communication, including without limitation any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photo-electronic system, or photo-optical system, including without limitation electronic mail, Internet communications, instant messages, or facsimile communications. *Cyberbullying* includes the creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages if the creation or impersonation creates any of the effects enumerated in the definition of *bullying*. *Cyberbullying* also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the effects enumerated in the definition of *bullying*.

Restorative measures means a continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that: (i) are adapted to the particular needs of the school and community, (ii) contribute to maintaining school safety, (iii) protect the integrity of a positive and productive learning climate, (iv) teach students the personal and interpersonal skills they will need to be successful in school and society, (v) serve to build and restore relationships among students, families, schools, and communities, (vi) reduce the likelihood of future disruption by balancing accountability with an understanding of students' behavioral health needs in order to keep students in school, and (vii) increase student accountability if the incident of bullying is based on religion, race, ethnicity, or any other category that is identified in the Ill. Human Rights Act. ⁴

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³ All definitions are directly from 105 ILCS 5/27-23.7. See also resources from Cyberbullying Research Center, available at: <https://www.cyberbullying.org/>, and the U.S. School Safety Clearinghouse website at: www.SchoolSafety.gov, discussed in f/n 1, para. 3 of [sample policy 4:170, Safety](#).

⁴ 105 ILCS 5/27-23.7(b), amended by P.A. 102-241.

School personnel means persons employed by, on contract with, or who volunteer in a school district, including without limitation school and school district administrators, teachers, ~~school counselors~~, school social workers, school counselors, school psychologists, school nurses, cafeteria workers, custodians, bus drivers, school resource officers, and security guards. ⁵

Bullying Prevention and Response Plan

The Superintendent or designee shall develop and maintain a bullying prevention and response plan that advances the District's goal of providing all students with a safe learning environment free of bullying and harassment. This plan must be consistent with the requirements listed below; each numbered requirement, 1-12, corresponds with the same number in the list of required policy components in 105 ILCS 5/27-23.7(b) 1-12. ⁶

1. The District uses the definition of *bullying* as provided in this policy. ⁷
2. Bullying is contrary to State law and the policy of this District. However, nothing in the District's bullying prevention and response plan is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment to the U.S. Constitution or under Section 3 of Article I of the Illinois Constitution.
3. Students are encouraged to immediately report bullying. A report may be made orally or in writing to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any staff member with whom the student is comfortable speaking.⁸ Anyone, including staff members and parents/guardians, who has information about actual or threatened bullying is encouraged to report it to the District named officials or any staff member. The District named officials and all staff members are available for help with a bully or to make a report about bullying.⁹ Anonymous reports are also accepted; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

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⁵ 105 ILCS 5/27-23.7(b), amended by P.A. 102-197.

⁶ As each numbered requirement, 1-12, corresponds with the same number in 5/27-23.7(b)1-12, there are no reference citations in footnotes. All non-statutory requirements, plus alternatives and optional provisions, are described in footnotes.

⁷ 105 ILCS 5/27-23.7(b), para. 3(1). See f/n 4, above and ISBE's *School Policies for Bullying Prevention* at: www.isbe.net/Documents/Bullying-Prev-Policy-Req.pdf.

A board may augment the School Code requirement by using this alternative:

Using the definition of *bullying* as provided in this policy, the Superintendent or designee shall emphasize to the school community that: (a) the District prohibits bullying, and (b) all students should conduct themselves with a proper regard for the rights and welfare of other students. This may include a process for commending or acknowledging students for demonstrating appropriate behavior.

⁸ The statute requires that the policy contain the email address and telephone number for the staff person(s) responsible for receiving bullying reports. Using the district Nondiscrimination Coordinator and Complaint Managers is consistent with [sample policy 2:260](#), *Uniform Grievance Procedure*. While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored. A telephone number for making anonymous reports may also be added.

⁹ 105 ILCS 5/27-23.7(d), requires that "[s]chool personnel available for help with a bully or to make a report about bullying" be made known to parents/guardians, students, and school personnel.

Nondiscrimination Coordinator: 10

Name

Address

Email

Telephone

Complaint Managers:

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

4. Consistent with federal and State laws and rules governing student privacy rights, the Superintendent or designee shall promptly inform the parent(s)/guardian(s) of every student involved in an alleged incident of bullying and discuss, as appropriate, the availability of social work services, counseling, school psychological services, other interventions, and restorative measures. ¹¹
5. The Superintendent or designee shall promptly investigate and address reports of bullying, by, among other things:
 - a. Making all reasonable efforts to complete the investigation within 10 school days after the date the report of a bullying incident was received and taking into consideration additional relevant information received during the course of the investigation about the reported bullying incident.
 - b. Involving appropriate school support personnel and other staff persons with knowledge, experience, and training on bullying prevention, as deemed appropriate, in the investigation process.
 - c. Notifying the Building Principal or school administrator or designee of the reported incident of bullying as soon as possible after the report is received.

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¹⁰ Sample policy 2:260, *Uniform Grievance Procedure*, states that a district’s Nondiscrimination Coordinator also serves as its Title IX Coordinator. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, list the Title IX and Nondiscrimination Coordinators’ names separately in this policy. Best practice is that throughout the district’s board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

¹¹ 105 ILCS 5/10-20.14 contains a similar requirement. See 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

- d. Consistent with federal and State laws and rules governing student privacy rights, providing parents/guardians of the students who are parties to the investigation information about the investigation and an opportunity to meet with the Building Principal or school administrator or his or her designee to discuss the investigation, the findings of the investigation, and the actions taken to address the reported incident of bullying.

The Superintendent or designee shall investigate whether a reported incident of bullying is within the permissible scope of the District's jurisdiction and shall require that the District provide the victim with information regarding services that are available within the District and community, such as counseling, support services, and other programs. ¹²

6. The Superintendent or designee shall use interventions to address bullying, that may include, but are not limited to, school social work services, restorative measures, social-emotional skill building, counseling, school psychological services, and community-based services. ¹³
7. A reprisal or retaliation against any person who reports an act of bullying **is prohibited**. Any person's act of reprisal or retaliation will be subject to disciplinary action, up to and including discharge with regard to employees, or suspension and/or expulsion¹⁴ with regard to students.
8. A student will not be punished for reporting bullying or supplying information, even if the District's investigation concludes that no bullying occurred. However, a person who is found to have falsely accused another of bullying, as a means of retaliation, as a means of bullying, or provided false information will be treated as either: (a) *bullying*, (b) student discipline up to and including suspension and/or expulsion, and/or (c) both (a) and (b) for purposes of determining any consequences or other appropriate remedial actions.
9. The District's bullying prevention and response plan is based on the engagement of a range of school stakeholders, including students and parents/guardians.
10. The Superintendent or designee shall post this policy on the District's website, if any, and include it in the student handbook, and, where applicable, post it where other policies, rules, and standards of conduct are currently posted. The policy must be distributed annually to parents/guardians, students, and school personnel (including new employees when hired), and must also be provided periodically throughout the school year to students and faculty. ¹⁵
11. Pursuant to State law and policy 2:240, *Board Policy Development*, the Board monitors this policy every two years by conducting a review and re-evaluation of this policy to make any necessary and appropriate revisions. The Superintendent or designee shall assist the Board with its re-evaluation and assessment of this policy's outcomes and effectiveness. Updates to

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¹² This sentence contains requirements found in 105 ILCS 5/27-23.7(d), amended by P.A. 102-894.

¹³ A grant may be available from ISBE for the promotion of a safe and healthy learning environment. 105 ILCS 5/2-3.180 and 3.181, added by P.A. 101-438 and renumbered by P.A. 102-558. A list of grant funding opportunities is available at: www.isbe.net/Pages/Grants.aspx.

¹⁴ Consult the board attorney about the potential conflict of 105 ILCS 5/27-23.7(b)(7) (allowance of suspension and/or expulsion of students for reprisal/retaliation against reports of bullying) with 105 ILCS 5/10-22.6(b-20) (districts must resolve threats, address disruptions, and minimize the length (and implementation of) suspensions and expulsions to the greatest extent practicable). See sample policy 7:200, Suspension Procedures, at f/n 8 and sample policy 7:210, Expulsion Procedures, at f/ns 11 and 13.

¹⁵ 105 ILCS 5/27-23.7(b)(10).

this policy will reflect any necessary and appropriate revisions. This process shall include, without limitation: ¹⁶

- a. The frequency of victimization;
- b. Student, staff, and family observations of safety at a school;
- c. Identification of areas of a school where bullying occurs;
- d. The types of bullying utilized; and
- e. Bystander intervention or participation.

The evaluation process may use relevant data and information that the District already collects for other purposes. Acceptable documentation to satisfy the re-evaluated policy submission include one of the following:

- 1) An updated version of the policy with the amendment/modification date included in the reference portion of the policy;
- 2) If no revisions are deemed necessary, a copy of board minutes indicating that the policy was re-evaluated and no changes were deemed to be necessary, ~~or a signed statement from the board;~~ or
- 3) A signed statement from the Board President indicating that the Board re-evaluated the policy and no changes to it were necessary.

The Superintendent or designee must post the information developed as a result of the policy re-evaluation on the District's website, or if a website is not available, the information must be provided to school administrators, Board members, school personnel, parents/guardians, and students. Reviews and re-evaluations in years they are due must be submitted to ISBE by September 30.

12. The Superintendent or designee shall fully implement the Board policies, including without limitation, the following: ¹⁷

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¹⁶ 105 ILCS 5/27-23.7. See the ISBE guidance document that is cited in f/n 7, above. ~~In 2020, ISBE extended submission to 12-30 in 2020.~~

¹⁷ The statute requires that the bullying policy *be consistent with* other board policies. The list of policies may be deleted and the following alternative used: "12. The District's bullying prevention plan must be consistent with other Board policies." If a policy list is included, be sure the referenced policies were adopted locally and amend the list accordingly.

The bullying statute does not identify staff member duties regarding the prevention of or response to student bullying. The following optional provision addresses staff member responsibilities and may be added as a new paragraph 13:

13. The Superintendent or designee shall fully inform staff members of the District's goal to prevent students from engaging in bullying and the measures being used to accomplish it. This includes each of the following:
 - a. Communicating the District's expectation and State law requirement that teachers and other certificated or licensed employees maintain discipline.
 - b. Establishing the expectation that staff members: (1) intervene immediately to stop a bullying incident that they witness or immediately contact building security and/or law enforcement if the incident involves a weapon or other illegal activity, (2) report bullying, whether they witness it or not, to an administrator, and (3) inform the administration of locations on school grounds where additional supervision or monitoring may be needed to prevent bullying.
 - c. Where appropriate in the staff development program, providing strategies to staff members to effectively prevent bullying and intervene when it occurs.
 - d. Establishing a process for staff members to fulfill their obligation to report alleged acts of bullying.

- a. 2:260, *Uniform Grievance Procedure*. A student may use this policy to complain about bullying.
- b. 2:265, *Title IX Sexual Harassment Grievance Procedure*. Any person may use this policy to complain about sexual harassment in violation of Title IX of the Education Amendments of 1972.
- c. 6:60, *Curriculum Content*. Bullying prevention and character instruction is provided in all grades in accordance with State law.
- d. 6:65, *Student Social and Emotional Development*. Student social and emotional development is incorporated into the District's educational program as required by State law.
- e. 6:235, *Access to Electronic Networks*. This policy states that the use of the District's electronic networks is limited to: (1) support of education and/or research, or (2) a legitimate business use.
- f. 7:20, *Harassment of Students Prohibited*. This policy prohibits any person from harassing, intimidating, or bullying a student based on an identified actual or perceived characteristic (the list of characteristics in 7:20 is the same as the list in this policy).
- g. 7:185, *Teen Dating Violence Prohibited*. This policy prohibits teen dating violence on school property, at school sponsored activities, and in vehicles used for school-provided transportation.
- h. 7:190, *Student Behavior*. This policy prohibits, and provides consequences for, hazing, bullying, or other aggressive behaviors, or urging other students to engage in such conduct.
- i. 7:310, *Restrictions on Publications; Elementary Schools*, and 7:315, *Restrictions on Publications; High Schools*. These policies prohibit students from and provide consequences for: (1) accessing and/or distributing at school any written, printed, or electronic material, including material from the Internet, that will cause substantial disruption of the proper and orderly operation and discipline of the school or school activities, and (2) creating and/or distributing written, printed, or electronic material, including photographic material and blogs, that causes substantial disruption to school operations or interferes with the rights of other students or staff members. ¹⁸

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¹⁸ For elementary districts, delete: ~~and 7:315, *Restrictions on Publications; High Schools*~~ and delete the Cross Reference to 7:315, *Restrictions on Publications; High Schools*. For high school districts, delete ~~7:310, *Restrictions on Publications; Elementary Schools*, and~~ and delete the Cross Reference to 7:310, *Restrictions on Publications; Elementary Schools*. In both cases, revise the beginning of the sentence to read: "These policies prohibit students from and provides."

LEGAL REF.: 105 ILCS 5/10-20.14, 5/10-22.6(b-20), 5/24-24, and 5/27-23.7.
405 ILCS 49/, Children’s Mental Health Act.
775 ILCS 5/1-103, Ill. Human Rights Act.
23 Ill.Admin.Code §§1.240, ~~and~~ §1.280, ~~and~~ 1.295.

CROSS REF.: 2:240 (Board Policy Development), 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 4:170 (Safety), 5:230 (Maintaining Student Discipline), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 6:235 (Access to Electronic Networks), 7:20 (Harassment of Students Prohibited), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:285 (~~Food Allergy Management Program~~Anaphylaxis Prevention, Response, and Management Program), 7:310 (Restrictions on Publications; Elementary Schools), 7:315 (Restrictions on Publications; High Schools)

DRAFT

Students

Student Behavior¹

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 Apply³

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.

See f/n 1 in [sample](#) policy 4:170, *Safety*, for information on the U.S. School Safety Clearinghouse website at: www.SchoolSafety.gov.

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 thorough factual inquiry to determine the degree of nexus and impact on the school. Consult the board attorney in these situations.

A U.S. Supreme Court decision and many lower court decisions address disciplining a student for off-campus misconduct. See *Mahanoy Area Sch. Dist. v. B.L.*, 141 S.Ct. 2038 (2021), discussed in f/n 3 of sample policy 7:240, *Conduct Code for Participants in Extracurricular Activities*; and *J.S. v. Blue Mountain Sch. Dist.*, 650 F.3d 915 (3rd Cir. 2011), combined with *Layshock v. Hermitage Sch. Dist.*, 650 F.3d 205 (3d Cir. 2011), cert. denied 565 U.S. 1156 (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).

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

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In contrast, the 7th Circuit Court of Appeals upheld a student’s expulsion for an article in an underground newspaper titled “So You Want to be a Hacker.” The article’s instructions for hacking into the school’s computers clearly interfered with the school’s operations. Boucher v. Sch. Bd. of the Sch. Dist. of Greenfield, 134 F.3d 821 (7th Cir. 1998). See also Wisniewski v. Bd. of Educ. of the Weedsport Central Sch. Dist., 494 F.3d 34 (2nd Cir. 2007), cert. denied 552 U.S. 1296 (2008), (holding a student’s transmission of an icon of a pistol with blood splattering and the words “Kill Mr. VanDer Molen” crossed the boundary of protected speech and posed a reasonably foreseeable risk that the icon would come to the attention of school authorities and materially and substantially disrupt the school).

Historically, schools have had more leeway in disciplining participants in athletics and extracurricular activities; however, the Mahanoy decision raises unresolved questions about the degree of leeway now afforded to school officials. See sample policy 7:240, Conduct Code for Participants in Extracurricular Activities at t/n 3 for further discussion.

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.

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

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
 - 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

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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 f/n 11 for a discussion of medical cannabis and *Ashley's Law*.

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

¹⁰ See [sample](#) policies 7:240, *Conduct Code for Participants in Extracurricular Activities*, and 7:300, *Extracurricular Athletics*.

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.
- 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

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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. 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. 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), 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). 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.

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.

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

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 or silenced and out-of-sight¹⁶ during the regular school day unless: (a) the supervising teacher grants permission; (b) use of the device is provided in a student's individualized education program (IEP); (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. ¹⁷

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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.

¹⁶ Delete “and out-of-sight” if the district wants to provide greater flexibility.

¹⁷ 105 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.

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. ¹⁸
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*. ¹⁹

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¹⁸ All districts must have a policy on bullying. 105 ILCS 5/27-23.7(d). [Sample 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, added by P.A. 101-418. See [sample 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 Twp. 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. The penalty is heightened when the offense is committed in a school or administrative facility.

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.

¹⁹ 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.

12. Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person's personal property. ²⁰
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. ²¹
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. ²²
17. Being involved in gangs or gang-related activities, including displaying gang symbols or paraphernalia. ²³
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 threatened individual because of his or her duties or employment status or status as a student inside the school. ²⁴
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. ²⁵
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

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²⁰ 720 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.

²¹ 105 ILCS 5/26-2a, amended by P.A.s 102-406, 102-266, and 102-321; 5/26-9; and 5/26-12, amended by P.A. 101-81. See [sample](#) 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*.

²² State law requires schools to suspend or expel any student who engages in this activity. 105 ILCS 5/31-3.

²³ See *Kelly v. Bd. of Educ. of McHenry Cmty. 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.

²⁴ This statement of misconduct restates 105 ILCS 5/10-22.6(d-5). The following alternative provides a shorter statement but will require the administrator to check the statute before imposing discipline based on it:

Making an explicit threat on an Internet website against a school, employee, or any school-related personnel under circumstances described in 105 ILCS 5/10-22.6(d-5).

²⁵ For more information regarding unmanned aircraft systems, see www.faa.gov/uas/.

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. ²⁶

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. ²⁷

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.²⁸ 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. ²⁹

Disciplinary Measures ³⁰

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-

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²⁶ 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."

²⁷ *Possession* should be defined to avoid vagueness problems.

²⁸ See f/n 18.

²⁹ Mandated by 105 ILCS 5/10-20.36.

³⁰ **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 77 (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).

exclusionary discipline before using out-of-school suspensions or expulsions.³¹ School personnel shall not advise or encourage students to drop out voluntarily due to behavioral or academic difficulties.³² Potential disciplinary measures include, without limitation, any of the following: ³³

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. ³⁴
6. In-school suspension. The Building Principal or designee shall ensure that the student is properly supervised. ³⁵
7. After-school study or Saturday study³⁶ 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.³⁷ 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.

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³¹ 105 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).

³² 105 ILCS 5/10-22.6(h).

³³ Most school attorneys advise against using a grade reduction as a disciplinary measure. A decision upholding such a policy is *Knight 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).

³⁴ 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*.

³⁵ 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). 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 [sample](#) policy 5:230, *Maintaining Student Discipline*, for further discussion of in-school suspension programs.

³⁶ Teachers may not be required to teach on Saturdays. 105 ILCS 5/24-2.

³⁷ 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).

9. Seizure of contraband; confiscation and temporary retention of personal property that was used to violate this policy or school disciplinary rules. ³⁸
10. Suspension of bus riding privileges in accordance with Board policy 7:220, *Bus Conduct*. ³⁹
11. Out-of-school suspension from school and all school activities in accordance with Board policy 7:200, *Suspension Procedures*.⁴⁰ A student who has been suspended may also be restricted from being on school grounds and at school activities. ⁴¹
12. Expulsion from school and all school activities for a definite time period not to exceed two calendar years in accordance with Board policy 7:210, *Expulsion Procedures*.⁴² A student who has been expelled may also be restricted from being on school grounds and at school activities. ⁴³
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. ⁴⁴
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. ⁴⁵

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

³⁸ 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).

³⁹ 105 ILCS 5/10-22.6(b) and (b-30).

⁴⁰ 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.

⁴¹ This sentence is optional. A board may make this mandatory by replacing "may also be" with "shall also be."

⁴² 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.

⁴³ This sentence is optional. A board may make this mandatory by replacing "may also be" with "shall also be."

⁴⁴ 105 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.

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.

⁴⁵ 105 ILCS 5/22-88, added by P.A. 101-478 and amended by P.A.s 102-197 and 102-558. See [sample](#) policy 7:150, *Agency and Police Interviews*.

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. ⁴⁶

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. ⁴⁷

Isolated Time Out, Time Out, and Physical Restraint ⁴⁸

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).

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

⁴⁶ **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). 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.

⁴⁷ This paragraph paraphrases 105 ILCS 5/24-24.

⁴⁸ 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 and 5/10-20.33, amended by P.A. 102-339; 105 ILCS 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~~ **replace the contents of this subhead and its contents with "The district prohibits the use of isolated time out, time out, and physical restraint, as defined in 105 ILCS 5/10-20.33."**; (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)".

Weapons ⁴⁹

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. ⁵⁰

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. ⁵¹

Re-Engagement of Returning Students ⁵²

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

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⁴⁹ 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.

⁵⁰ Optional.

⁵¹ 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 [in](#) 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.

⁵² Required by 105 ILCS 5/10-22.6(b-25). See 7:190-AP8, *Student Re-Engagement Guidelines*.

exclusionary discipline and shall include the opportunity for students who have been suspended to complete or make up work for equivalent academic credit. ⁵³

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.⁵⁴ 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.⁵⁵ *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 defense of property. Teachers may temporarily remove students from a classroom for disruptive behavior. ⁵⁶

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

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⁵³ 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).

⁵⁴ 105 ILCS 5/10-27.1A, 5/10-27.1B, and 5/10-21.7, amended by P.A. 102-894. *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.

⁵⁵ 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.

⁵⁶ 105 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.

bus, up to ~~ten~~10 consecutive school days, provided the appropriate procedures are followed.⁵⁷ The Board may suspend a student from riding the bus in excess of ~~ten~~10 school days for safety reasons. ⁵⁸

Student Handbook ⁵⁹

The Superintendent, with input from the parent-teacher advisory committee,⁶⁰ 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.

DRAFT

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

⁵⁷ Required by 105 ILCS 5/10-22.6(b).

⁵⁸ Id.

⁵⁹ 105 ILCS 5/10-20.14(a) requires schools to provide a copy of the student discipline policy to parents/guardians within 15 days after the beginning of the school year, or within 15 days after a transfer student starts classes, but it does not specify how to provide copies. For ease of administration, this policy specifies that copies will be provided via student handbooks.

⁶⁰ 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 www.ilprincipals.org/msh/.

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, and
5/31-3.
105 ILCS 110/3.10, Critical Health Problems and Comprehensive Health Education
Act.
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), 7:315
(Restrictions on Publications; High Schools), 8:30 (Visitors to and Conduct on
School Property)

Students

Student Support Services ¹

The District provides a liaison to facilitate the enrollment and transfer of records of students in the legal custody of the Ill. Dept. of Children and Family Services when enrolling in or changing schools. ²

The following student support services may be provided by the School District: ³

1. Health services supervised by a qualified school nurse.⁴ The Superintendent or designee may implement procedures to further a healthy school environment and prevent or reduce the spread of disease.
2. Educational and psychological testing services and the services of a school psychologist⁵ as needed. In all cases, written permission to administer a psychological examination must be

Commented [DJ1]: This sentence was formerly #5 in the list below. It was moved out of the list because appointment of a DCFS liaison is no longer optional under the law.

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

¹ State or federal law controls this policy's content.

² Required by 105 ILCS 5/10-20.59, amended by P.A. 102-199. See f/n 16 in sample policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*, for liaison responsibilities and requirements.

³ All districts are required to conduct a comprehensive needs assessment to determine the scope of student personnel services needs in the areas of: (1) guidance and counseling needs; (2) psychological needs; (3) social work needs; and (4) health needs. 23 Ill.Admin.Code §1.420(q). Endorsement requirements for various types of school support personnel are referenced in f/ns 3 through 6 below, and further information is available at: www.isbe.net/Pages/PEL-School-Support-Ed-Lic.aspx. Until June 20, 2023-20-23, an individual who fails to meet the necessary qualifications for a specific school support personnel endorsement, but holds another professional license or certification approved by ISBE, may seek short-term approval for assignment to a position in situations where an unforeseen vacancy occurs. Short-term approvals are valid for three full fiscal years. 23 Ill.Admin.Code §25.432.

P.A. 95-558 created the Ensuring Success in School Task Force. This task force developed recommendations for policies, procedures, and protocols for school boards to adopt to address the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence. The intent of the recommendations [was](#) to ensure these student populations' ability to: (1) stay in school; (2) stay safe at school; and (3) successfully complete their education. See f/n 3 in sample policy 6:65, *Student Social and Emotional Development*, for further information. ~~A copy of this report is at: www.isbe.net/Documents/ess-task-force-final-report0610.pdf#search=%22ensuring%20success%20in%20school%20task%20force%22. School boards and superintendents may want to create their own study groups to discuss implementation of the task force's recommendations for policies, procedures and protocols.~~

⁴ School districts may employ ~~noncertificated~~ non-professional-educator-licensed *registered professional nurses* to perform professional nursing services. 105 ILCS 5/10-22.23, amended by P.A. 102-894; 23 Ill.Admin.Code §1.760(c). A *registered professional nurse* means any nurse who is licensed to practice professional nursing in Illinois under the Nurse Practice Act (225 ILCS 65/) and whose license is active and in good standing with the Ill. Dept. of Financial and Professional Regulation. 23 Ill.Admin.Code §1.760(b).

A *school nurse* means any registered professional nurse who also holds a professional educator license endorsed for school support services in school nursing, or any registered professional nurse who does not hold the professional educator license but was employed in the school district of current employment before 7-1-76. 23 Ill.Admin.Code §1.760(c).

105 ILCS 5/10-22.23 provides that any nurse first employed on or after 7-1-76, whose duties require teaching or the exercise of instructional judgment or educational evaluation of students, must be licensed under 105 ILCS 5/21B-25. ~~However, that licensure Section 21-25 was repealed by P.A. 98-413, eff. 8-16-13.~~

A school nurse may hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§1.760(c), 23.120, 25.245.

obtained from a student's parent(s)/guardian(s). The results will be given to the parent(s)/guardian(s), with interpretation, as well as to the appropriate professional staff.

3. The services of a school social worker.⁶ A student's parent/guardian must consent to regular or continuing services from a social worker.
4. Guidance and school counseling⁷ services.

~~A liaison to facilitate the enrollment and transfer of records of students in the legal custody of the Illinois Department of Children and Family Services when enrolling in or changing schools.⁸~~

The Superintendent or designee shall develop protocols for responding to students with social, emotional, or mental health needs that impact learning ability.⁹ The District, however, assumes no liability for preventing, identifying, or treating such needs.

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

⁵ A *school psychologist* means a psychologist who holds a Professional Educator License with a school psychologist endorsement per 105 ILCS 5/21B-25 and either: (1) has graduated with a master's degree or higher degree in psychology or educational psychology from an institution of higher education that maintains equipment, courses of study, and standards of scholarship approved by the Ill. State Board of Education (ISBE), has had at least one school year of full-time supervised experience in the delivery of school psychological service approved by the State Superintendent of Education, and has such additional qualifications as may be required by ISBE; or (2) holds a valid Nationally Certified School Psychologist credential. 105 ILCS 5/14-1.09. School psychologists hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§1.760(a), 23.130, 25.235. [The scope of school psychological services is described in 105 ILCS 5/14-1.09.1, amended by P.A. 102-894.](#)

⁶ A *school social worker* means a social worker who has graduated from an accredited graduate school of social work and has such additional qualifications as may be required by ISBE and who holds a Professional Educator License with a school support personnel endorsement for school social work per 105 ILCS 5/21B-25. 105 ILCS 5/14-1.09a. See [105 ILCS 5/10-22.24a, amended by P.A. 102-894, and 105 ILCS 5/21B-25\(2\)\(G\); 23 Ill.Admin.Code §§1.760\(a\), 23.140, 25.215.](#) School social workers may not provide services outside of their district employment to any student(s) attending school in the district. 23 Ill.Admin.Code §25.215. *School marriage and family therapists* are another type of school support personnel; they hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§23.150, 25.260. [The scope of school social worker services is described in 105 ILCS 5/14-1.09.2, amended by P.A. 102-894.](#)

⁷ *School counselors* hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§1.760(a), 23.110, 25.225. *School guidance counselors* refers to district employees that work in high schools to offer students advice and assistance in making career or college plans; no specific school support personnel endorsement exists for school guidance counselors. 105 ILCS 5/22-9~~30~~³⁰ (final citation pending), added by P.A. 102-327 [and renumbered by P.A. 102-813.](#)

In contrast, *professional counselors* and professional counseling practice in Illinois are governed by the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act and its implementing regulations. 225 ILCS 107/; 68 Ill.Admin.Code Part 1375. The Mental Health and Developmental Disabilities Code, 405 ILCS 5/, provides that minors 12 years of age or older may request and receive up to eight 90-minute sessions (previously five 45-minute sessions) of professional counseling services or psychotherapy (provided by a clinical psychologist) without the consent of the minor's parent, guardian, or person in loco parentis. 405 ILCS 5/3-~~50A-105~~^{50A-105}. Most school districts do not regularly provide *professional counseling* or *clinical psychological* services to students. Instead, most districts provide *school counseling* or *school psychological* services to students, and Illinois law does not specify any limits on the number of school counseling or school psychological sessions which a minor may have before obtaining parent/guardian permission. If your district seeks to regularly provide *professional counseling* or *clinical psychological* services to students, consult with your board attorney about potential changes to board policies and administrative procedures, as well as collective bargaining issues.

⁸ ~~Optional. 105 ILCS 5/10-20.59 allows a liaison. Be sure this policy is consistent with policy 7:50, School Admissions and Student Transfers To and From Non-District Schools. See ¶n 13 in 7:50, School Admissions and Student Transfers To and From Non-District Schools, for liaison responsibilities and requirements.~~

⁹ Required by the Children's Mental Health Act of 2003, 405 ILCS 49/15(b).

Erin's Law Counseling Options, Assistance, and Intervention ¹⁰

The Superintendent or designee will ensure that each school building's Student Support Committee identifies counseling options for students who are affected by sexual abuse and grooming behaviors, along with District and community-based options for victims of sexual abuse and grooming behaviors to obtain assistance and intervention. Community-based options must include a Children's Advocacy Center and sexual assault crisis center(s) that serve the District, if any.

Commented [DJ2]: This phrase is added to align with *Erin's Law*.

This policy shall be implemented in a manner consistent with State and federal laws, including the Individuals with Disabilities Education Act, 42 U.S.C. §12101 et seq.

LEGAL REF.: 105 ILCS 5/10-23.13(b), 5/10-20.59, and 5/21B-25(G).
405 ILCS 49/, Children's Mental Health Act of 2003.
740 ILCS 110/, Mental Health and Developmental Disabilities Confidentiality Act.

CROSS REF.: 6:65 (Student Social and Emotional Development), 6:270 (Guidance and Counseling Program), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:280 (Communicable and Chronic Infectious Disease), 7:340 (Student Records)

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

¹⁰ Required by *Erin's Law*, 105 ILCS 5/10-23.13(b)(2), (3), and (5), amended by P.A. 102-610. See sample policy 5:90, *Abused and Neglected Child Reporting*, and administrative procedure 5:90-AP, *Coordination with Children's Advocacy Center*, for more information on Children's Advocacy Centers.

Students

Anaphylaxis Prevention, Response, and Management Program ¹

School attendance may increase a student’s risk of exposure to allergens that could trigger anaphylaxis. Students at risk for anaphylaxis benefit from a School Board policy that coordinates a planned response in the event of an anaphylactic emergency. Anaphylaxis is a severe systemic allergic reaction from exposure to allergens that is rapid in onset and can cause death. Common allergens include animal dander, fish, latex, milk, shellfish, tree nuts, eggs, insect venom, medications, peanuts, soy, and wheat. A severe allergic reaction usually occurs quickly; death has been reported to occur within minutes. An anaphylactic reaction can also occur up to one to two hours after exposure to the allergen.

While it is not possible for the District to completely eliminate the risks of an anaphylactic emergency² when a student is at school, an Anaphylaxis Prevention, Response, and Management Program using a cooperative effort among students’ families, staff members, students, health care providers, emergency medical services, and the community helps the District reduce these risks and provide accommodations and proper treatment for anaphylactic reactions. ³

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¹ 105 ILCS 5/2-3.19082(d), added by P.A. 102-413, and renumbered P.A. 102-813, requires school boards to update or implement an anaphylactic policy by 8-17-22 (six months after the Ill. State Board of Education (ISBE) distributed its model on 2-17-22) in accordance with the model policy developed by ISBE, titled *Anaphylaxis Response Policy for Illinois Schools, (ISBE Model)*, available at: www.isbe.net/Documents/Anaphylactic-policy.pdf. Administrative procedures referencing the *ISBE Model* must support this policy in order to comply with the law. See the discussion in f/n 4 below and 7:285-AP, *Implementing an Anaphylaxis Prevention, Response, and Management Program* for a sample implementation procedure.

The law requires the *ISBE Model*, and in turn a district’s policy based on the *ISBE Model*, to include: (a) a procedure and treatment plan, including emergency protocols and responsibilities for school nurses and other appropriate school personnel, for responding to anaphylaxis, (b) requirements for a training course for appropriate school personnel on prevention and responding to anaphylaxis, (c) a procedure and appropriate guidelines for the development of an individualized emergency health care plan for children with a food or other allergy that could result in anaphylaxis, (d) a communication plan for intake and dissemination of information provided by Illinois regarding children with a food or other allergy that could result in anaphylaxis, including a discussion of methods, treatments, and therapies to reduce the risk of allergic reactions, including anaphylaxis, (e) strategies for reducing the risk of exposure to anaphylactic causative agents, including food and other allergens, and (f) a communication plan for discussion with children who have developed adequate verbal communication and comprehension skills and with the parents or guardians of all children about foods that are safe and unsafe and about strategies to avoid exposure to unsafe food. 105 ILCS 5/2-3.19082(b), added by P.A. 102-413 and renumbered by P.A. 102-813.

The *ISBE Model* is primarily focused on item (a). Little to no guidance for schools regarding items (b) – (f) exists in it other than to generally cite to voluminous resources made available by the Centers for Disease Control and Prevention (CDC) and National Association of School Nurses (NASN). See f/n 3, below. This policy and its implementing procedures are designed to supplement the *ISBE Model* and further lead school officials to resources regarding items (b) – (f). 105 ILCS 5/2-3.182(b)(1-6), added by P.A. 102-413 and renumbered by P.A. 102-813.

² The *ISBE Model* does not provide a specific definition for *anaphylactic emergency*, but it appears to use that term and *anaphylaxis* interchangeably.

³ This ends statement requires board work and should be discussed (what effect or impact will this district statement have on the students and the community?) and altered accordingly before board adoption. The *ISBE Model* provides that students at risk for anaphylaxis benefit from a policy that coordinates a planned response in the event of an anaphylactic emergency, and it emphasizes that an emergency plan should include all stakeholders. For more information on ends statements and governance, see IASB’s *Foundational Principles of Effective Governance* at:– www.iasb.com/conference-training-and-events/training/training-resources/foundational-principles-of-effective-governance/www.iasb.com/principles-popup.efm.

The clause “using a cooperative effort among students’ families, staff members, students, health care providers and emergency medical services, and the community” is optional and can be removed. The purpose of the clause is to share responsibility for management among all stakeholders.

The Superintendent or designee shall develop and implement an Anaphylaxis Prevention, Response, and Management Program for the prevention and treatment of anaphylaxis that: ⁴

1. Fully implements the Ill. State Board of Education (ISBE)'s model policy required by the School Code that: (a) relates to the care and response to a person having an anaphylaxis reaction, (b) addresses the use of epinephrine in a school setting, (c) provides a full food allergy and prevention of allergen exposure plan, and (d) aligns with 105 ILCS 5/22-30 and 23 Ill.Admin.Code §1.540. ⁵
2. Ensures staff members receive appropriate training, including: (a) an in-service training program for staff who work with students that is conducted by a person with expertise in anaphylactic reactions and management, and (b) training required by law for those staff members acting as *trained personnel*, as provided in 105 ILCS 5/22-30 and 23 Ill.Admin.Code §1.540. ⁶
3. Implements and maintains a supply of undesignated epinephrine in the name of the District, in accordance with policy 7:270, *Administering Medicines to Students*. ⁷
4. Follows and references the applicable best practices specific to the District's needs in the Centers for Disease Control and Prevention's *Voluntary Guidelines for Managing Food*

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⁴ 105 ILCS 5/10-20. To balance the requirement to implement a policy based upon the *ISBE Model* (105 ILCS 5/2-3.19082(d)) with the practicalities of managing a district, this paragraph delegates the board's implementation duty to the superintendent.

⁵ Number one outlines the goals that the legislature directed ISBE to include in the topics covered by the *ISBE Model*. 105 ILCS 5/2-3.190(b), added by P.A. 102-413 and renumbered by P.A. 102-81349(a)-(e). The *ISBE Model* is based on the *Virginia Dept. of Education Anaphylaxis Policy*, available at: www.doe.virginia.gov/support/health_medical/anaphylaxis_epinephrine/, and it incorporates NASN recommendations for a comprehensive anaphylaxis school policy. See the *NASN Sample Anaphylaxis Policy*, at: www.nasn.org/nasn-resources/resources-by-topic/allergies-anaphylaxis. Boards may add further expectations and include additional goals that reflect those expectations here. Ensure that any additional expectations or goals align with policy 7:270, *Administering Medicines to Students*.

⁶ Number two includes the biennial in-service training program required by 105 ILCS 5/10-22.39(e) and training required by 105 ILCS 5/22-30(g) for those staff members who will be *trained personnel*, authorized by 105 ILCS 5/22-30(b-10), to provide or administer undesignated epinephrine in specific situations. The law authorizes *school nurses* and *trained personnel* to administer undesignated epinephrine. See sample policy 5:100, *Staff Development Program* (at f/n 5 if the board does not list all training in the policy), and 7:270-AP2, *Checklist for District Supply of Undesignated Asthma Medication, Epinephrine Injectors, Opioid Antagonists, and/or Glucagon*. 105 ILCS 5/22-30(b-5) does not specifically state that staff members authorized to administer (student-specific) epinephrine under a student's specific individual plan must also complete the more rigorous training required for *trained personnel*. However, the *ISBE Model* is clear that "[o]nly trained personnel should administer epinephrine to a student believed to be having an anaphylactic reaction," and it requires each building-level administrator to identify at least two employees, in addition to the school nurse (if any), to be *trained personnel*. The more in-depth training for staff members who may administer epinephrine (whether student-specific or undesignated) is also a best practice emphasized in the *CDC Guidelines*, which is referenced in the *ISBE Model* (see f/n 8, below).

⁷ Optional. Delete number three if a board has not adopted the **School District Supply of Undesignated Epinephrine Injectors** subhead in policy 7:270, *Administering Medicine to Students*.

Allergies in Schools and Early Care and Education Programs and the *National Association of School Nurses Allergies and Anaphylaxis Resources/Checklists*.⁸

5. Provides annual notice to the parents/guardians of all students to make them aware of this policy.⁹
6. Complies with State and federal law and is in alignment with Board policies.

Monitoring¹⁰

Pursuant to State law and policy 2:240, *Board Policy Development*, the Board ~~monitors reviews and makes any necessary updates to~~ this policy at least once every three years ~~by conducting a review and reevaluation of this policy to make any necessary and appropriate revisions~~. The Superintendent or designee shall assist the Board with its ~~reevaluation and assessment of this policy's outcomes and effectiveness. Any updates will reflect any necessary and appropriate revisions~~ review and any necessary updates.

LEGAL REF.: 105 ILCS 5/2-3.19082, 5/10-22.39(e), and 5/22-30.
23 Ill.Admin.Code §1.540.
Anaphylaxis Response Policy for Illinois Schools, published by ISBE.

CROSS REF.: 4:110 (Transportation), 4:120 (Food Services), 4:170 (Safety), 5:100 (Staff Development Program), 6:120 (Education of Children with Disabilities), 6:240 (Field Trips), 7:180 (Prevention of and Response to Bullying, Intimidation and Harassment), 7:250 (Student Support Services), 7:270 (Administering Medicines to Students), 8:100 (Relations with Other Organizations and Agencies)

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⁸ Number four refers to the CDC's *Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs*, at: www.cdc.gov/healthyschools/foodallergies/pdf/20_316712-A_FA_guide_508tag.pdf (*CDC Guidelines*), which is cited in the *ISBE Model* as a resource for a "full food allergy and prevention of allergen exposure plan." Adopting the entire, voluminous *CDC Guidelines* document as policy is not practical. The *CDC Guidelines* also state that not every recommendation will be appropriate or feasible for every district's needs. The *National Association of School Nurses Allergies and Anaphylaxis Resources/Checklists*, at: <http://www.nasn.org/nasn-resources/resources-by-topic/allergies-anaphylaxis>, are also linked as a resource in the *ISBE Model*. The *ISBE Model* acknowledges that not all schools have access to school nurses or other health staff on a regular basis, and it encourages districts to take this into consideration when developing building-level plans.

⁹ Number five is required by 105 ILCS 5/2-3.19082(c), added by P.A. 102-413 and renumbered by P.A. 102-813. The notification must include contact information for parents/guardians to engage further with the district to learn more about individualized aspects of the policy. For ease of administration, districts may want to include this notification in student handbook(s). The Ill. Principal's Association (IPA) maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook* (MSH), at: www.ilprincipals.org/resources/model-student-handbook.

¹⁰ 105 ILCS 5/2-3.19082(e), added by P.A. 102-413 and renumbered by P.A. 102-813, provides that ISBE shall review and update its model policy at least once every three years. Although this section does not expressly state that boards must also conduct a review within this time frame, that is the logical conclusion based on a board's duty in 105 ILCS 5/10-16.7 to direct the superintendent through policy. The policy should be updated in accordance with any revisions made to the ISBE Model.

Students

Suicide and Depression Awareness and Prevention ¹

Youth suicide impacts the safety of the school environment. It also affects the school community, diminishing the ability of surviving students to learn and the school’s ability to educate. Suicide and depression awareness and prevention are important Board goals.

Suicide and Depression Awareness and Prevention Program

The Superintendent or designee shall develop, implement, and maintain a suicide and depression awareness and prevention program (Program) that advances the Board’s goals of increasing awareness and prevention of depression and suicide. This program must be consistent with the requirements of *Ann Marie’s Law* listed below; each listed requirement, 1-6, corresponds with the list of required policy components in the School Code Section 5/2-3.166(c)(2)-(7). The Program shall include:

1. Protocols for administering youth suicide awareness and prevention education to students and staff. ²
 - a. For students, implementation will incorporate Board policy 6:60, *Curriculum Content*, which implements 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7 (requiring education for students to develop a sound mind and a healthy body).
 - b. For staff, implementation will incorporate Board policy 5:100, *Staff Development Program*, and teacher’s institutes under 105 ILCS 5/3-14.8 (requiring coverage of the warning signs of suicidal behavior).
2. Procedures for methods of suicide prevention with the goal of early identification and referral of students possibly at risk of suicide.³ Implementation will incorporate:

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¹ A suicide awareness and prevention policy is required by 105 ILCS 5/2-3.166(c). The first sentence of this policy is required by 105 ILCS 5/2-3.166(c)(1).

This policy contains an item on which collective bargaining may be required. See 105 ILCS 5/10-22.24b. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

² Required by 105 ILCS 5/2-3.166(c)(2). While this law is titled Youth Suicide Awareness and Prevention, it requires the policy to include protocols for administering youth suicide awareness and prevention education to *staff* and students.

For student protocols, see 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7.

For staff protocols, see 105 ILCS 5/3-14.8, which requires the regional superintendents to cover the warning signs of suicidal behavior in teacher’s institutes. In suburban Cook County, an Intermediate Service Center will perform the responsibilities that are performed in other locations by the regional superintendent.

³ Required by 105 ILCS 5/2-3.166(c)(3). This policy adds *with the goal of* and *possibly* to modify the statute’s use of “at risk of suicide.” *With the goal of* acknowledges that identifying every student at risk of suicide is impossible. *Possibly* is added to inform the public that these identifications are not definitive. School staff members are not licensed medical professionals who are fully trained to make definitive determinations about whether a student is at risk of suicide, and parents/guardians should not take any referral under this requirement as such.

- a. The training required by 105 ILCS 5/10-22.39 for licensed school personnel and administrators who work with students to identify the warning signs of suicidal behavior in youth along with appropriate intervention and referral techniques, including methods of prevention, procedures for early identification, and referral of students at risk of suicide; and
 - b. Ill. State Board of Education (ISBE)-recommended guidelines and educational materials for staff training and professional development, along with ISBE-recommended resources for students containing age-appropriate educational materials on youth suicide and awareness, if available pursuant to *Ann Marie's Law* on ISBE's website.
3. Methods of intervention, including procedures that address an emotional or mental health safety plan for use during the school day and at school-sponsored events for a student identified as being at increased risk of suicide including those students who: (A) suffer from a mental health disorder; (B) suffer from a substance abuse disorder; (C) engage in self-harm or have previously attempted suicide; (D) reside in an out-of-home placement; (E) are experiencing homelessness; (F) are lesbian, gay, bisexual, transgender, or questioning (LGBTQ); (G) are bereaved by suicide; or (H) have a medical condition or certain types of disabilities. Implementation will incorporate paragraph number 2, above, along with Board policies: ⁴
- a. 6:65, *Student Social and Emotional Development*, implementing the goals and benchmarks of the Ill. Learning Standards and 405 ILCS 49/15(b) (requiring student social and emotional development in the District's educational program);
 - b. 6:120, *Education of Children with Disabilities*, implementing special education requirements for the District;
 - c. 6:140, *Education of Homeless Children*, implementing provision of District services to students who are homeless;
 - d. 6:270, *Guidance and Counseling Program*, implementing guidance and counseling program(s) for students, and 105 ILCS 5/10-22.24a and 22.24b, which allow a qualified guidance specialist or any licensed staff member to provide school counseling services;
 - e. 7:10, *Equal Educational Opportunities*, and its implementing administrative procedure and exhibit, implementing supports for equal educational opportunities for students who are LGBTQ;

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105 ILCS 5/10-22.39, amended by P.A. 101-350, requires licensed school personnel and administrators who work with students in kindergarten through grade 12 to be trained to identify the warning signs of suicidal behavior in youth along with appropriate intervention and referral techniques. While very little guidance is available for students in grades 6 and below, *Ann Marie's Law* directs the Ill. State Board of Education (ISBE) to compile, develop and post these items on its website. Districts may use the Ill. Mental Health training program, established under the Ill. Mental Health First Aid Training Act, to provide the training for this in-service requirement. See f/n 4 in [sample](#) policy 5:100, *Staff Development Program*, for further discussion of this training requirement.

Ann Marie's Law requires ISBE to develop and recommend materials. See the discussion in f/n 7, below, on ISBE-recommended materials.

See f/n 1 in [sample](#) policy 4:170, *Safety*, for information on the U.S. School Safety Clearinghouse website at: www.SchoolSafety.gov.

⁴ Required by 105 ILCS 5/2-3.166(c)(4), amended by P.A. 102-267, ~~eff. 7-1-22~~. For further discussion of 105 ILCS 5/10-22.24b, see f/n 2 in [sample](#) policy 6:270, *Guidance and Counseling Program*. This policy adds "for use during the school day and at school-sponsored events" to inform the public about the limitations concerning what schools can realistically provide students and their parent(s)/guardian(s). See the discussion in f/n 3, [above](#), regarding the addition of the word *possibly*.

- f. 7:50, *School Admissions and Student Transfers To and From Non-District Schools*, implementing State law requirements related to students who are in foster care;
 - g. 7:250, *Student Support Services*, implementing the Children’s Mental Health Act ~~of 2003~~, 405 ILCS 49/ (requiring protocols for responding to students with social, emotional, or mental health issues that impact learning ability); and
 - h. State and/or federal resources that address emotional or mental health safety plans for students who are possibly at an increased risk for suicide, if available on the ISBE’s website pursuant to *Ann Marie’s Law*.
4. Methods of responding to a student or staff suicide or suicide attempt. Implementation of this requirement shall incorporate building-level Student Support Committee(s) established through Board policy 7:250, *Student Support Services*. ⁵
 5. Reporting procedures. Implementation of this requirement shall incorporate Board policy 6:270, *Guidance and Counseling Program*, and Board policy 7:250, *Student Support Services*, in addition to other State and/or federal resources that address reporting procedures. ⁶
 6. A process to incorporate ISBE-recommended resources ⁷ on youth suicide awareness and prevention programs, including current contact information for such programs in the District’s Suicide and Depression Awareness and Prevention Program. ⁸

Illinois Suicide Prevention Strategic Planning Committee

The Superintendent or designee shall attempt to develop a relationship between the District and the Illinois Suicide Prevention Strategic Planning Committee, the Illinois Suicide Prevention Coalition Alliance, and/or a community mental health agency. The purpose of the relationship is to discuss how to incorporate the goals and objectives of the Illinois Suicide Prevention Strategic Plan into the District’s Suicide Prevention and Depression Awareness Program. ⁹

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⁵ Required by 105 ILCS 5/2-3.166(c)(5). See 7:250-AP2, *Protocol for Responding to Students with Social, Emotional, or Mental Health Needs* for information about building-level Student Support Committees. When sharing information from therapists and counselors, these committees are required to follow the Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/, and the Children’s Mental Health Act ~~of 2003~~, 405 ILCS 49/, amended by P.A. 102-899, eff. 1-1-23.

⁶ Required by 105 ILCS 5/2-3.166(c)(6).

⁷ 105 ILCS 5/2-3.166(b)(2)(B), directs ISBE to “compile, develop, and post on its publicly accessible Internet website both of the following, which may include materials already publicly available: (A) [r]ecommended guidelines and educational materials for training and professional development, and (B) [r]ecommended resources and age-appropriate educational materials on youth suicide awareness and prevention.”

ISBE has created the *Illinois Youth Suicide Prevention Toolkit: A Reference for Administrators, Counselors, Teachers, and Staff*, at: www.isbe.net/Documents/Suicide-Prevention-Procedures.pdf, as well as listing other resources at: www.isbe.net/Pages/Suicide-Prevention.aspx.

⁸ Required by 105 ILCS 5/2-3.166(c)(7).

⁹ Optional. The *Illinois Suicide Prevention Strategic Plan* may be found at: <https://dph.illinois.gov/content/dam/soi/en/web/idph/files/publications/illinoisstrategicplan2020reduced.pdf> www.dph.illinois.gov/sites/default/files/publications/011519ohpm-suicide-prevention-plan-2018-2021.pdf. Its goals and objectives reflect the input of public and private organizations and stakeholders that are concerned with mental health. It is designed to reduce suicide through a positive public health approach. See also the Suicide Prevention Resource Center and its Illinois page at www.sprc.org/states/illinois for more information on which goals in the Illinois Suicide Prevention Strategic Plan have been implemented. ~~The Suicide Prevention Resource Center also had an awareness public prevention pilot program titled “It Only Takes One,” available at: www.itonlytakesone.org/~~

Monitoring ¹⁰

The Board will review and update this policy pursuant to *Ann Marie's Law* and Board policy 2:240, *Board Policy Development*.

Information to Staff, Parents/Guardians, and Students

The Superintendent shall inform each school district employee about this policy and ensure its posting on the District's website.¹¹ The Superintendent or designee shall provide a copy of this policy to the parent or legal guardian of each student enrolled in the District.¹² Student identification (ID) cards, the District's website, and student handbooks and planners will contain the support information as required by State law.¹³

Implementation

This policy shall be implemented in a manner consistent with State and federal laws, including the [Student Confidential Reporting Act, 5 ILCS 860/](#), Children's Mental Health Act ~~of 2003~~, 405 ILCS 49/, Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/, and the Individuals with Disabilities Education Act, 42 U.S.C. §12101 et seq.

The District, Board, and its staff are protected from liability by the Local Governmental and Governmental Employees Tort Immunity Act. Services provided pursuant to this policy: (1) do not replace the care of a physician licensed to practice medicine in all of its branches or a licensed medical practitioner or professional trained in suicide prevention, assessments and counseling services, (2) are strictly limited to the available resources within the District, (3) do not extend

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¹⁰ Required by 105 ILCS 5/2-3.166(d).

¹¹ Id. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Consult the board attorney about whether a signature is required to prove compliance with the law's specific requirement that *each school district employee and each student enrolled in the District* are informed of and/or provided a copy of the policy.

¹² Id. Consult the board attorney about placing the policy in the student handbook instead of and/or in addition to providing a hard copy to each student's parent/guardian. Members of the Ill. Principals Assoc. (IPA) may subscribe to the IPA's Model Student Handbook Service, which are aligned with IASB's policy services. For more information, see: <https://ilprincipals.org/msh/www.ilprincipals.org/resources/model-student-handbook>.

¹³ 105 ILCS 5/10-20.763 ~~(final citation pending)~~, added by P.A. 102-134 and renumbered by P.A. 102-813 (district-issued ID cards for students, and information on districts' websites); 105 ILCS 5/10-20.8175 ~~(final citation pending)~~, added by P.A. 102-416 and renumbered by P.A. 102-813 (districts must insert either the Safe2Help Illinois helpline or a local suicide prevention hotline on ID card, contact to identify each helpline that may be contacted through text messaging, and include the same in student handbooks and planners (if a student planner is custom printed by a district or its schools for distribution to students in any of grades 6 through 12)). See f/n 1 in procedure 7:290-AP, Resource Guide for Implementation of Suicide and Depression Awareness and Prevention Program, for further information regarding Safe2Help Illinois.

beyond the school day and/or school-sponsored events, and (4) cannot guarantee or ensure the safety of a student or the student body. ¹⁴

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14 Consult the board attorney for guidance concerning liability in this area. Except for cases of willful and wanton conduct, the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/, likely protects districts from liability for failure to properly identify and/or respond to a student’s mental health issue that results in suicide. See 745 ILCS 10/3-108 and Grant v. Bd. of Trustees of Valley View Sch. Dist. No. 365-U, 286 Ill.App.3d. 642 (3rd Dist. 1997). However, attorneys have concerns that failing to inform parents/guardians that services required under *Ann Marie’s Law* are limited may open districts to potential litigation if services provided under the policy fail or are deemed inadequate. Every situation is fact specific and the issues require careful evaluation. A disclaimer, such as the one presented here, may not be sufficient. A district may take several actions, after discussion with its board attorney, to minimize liability, such as adding limiting phrases (see discussions in f/ns 3 & 4) and ensuring other policies are followed. Ultimately, the best way to minimize liability is to be sure that the district’s insurance policies cover the training and other requirements under *Ann Marie’s Law*.

In addition to the Tort Immunity Act, school officials and districts may also be entitled to qualified immunity in civil rights lawsuits that seek to hold them liable for a suicide. See Sanford v. Stiles, 456 F.3d 298 (3d Cir. 2006); Martin v. Shawano-Gresham Sch. Dist., 295 F.3d 701 (7th Cir. 2002); Armijo v. Wagon Mount Pub. Schs., 159 F.3d 1253 (10th Cir. 1998). Yet, recent trends in student-on-student harassment cases are emerging where parents whose children die of suicide allege that a school’s failure to properly identify or respond to the child’s mental health issues was a contributing cause for the suicide.

In these cases, the parents ask courts to apply Davis v. Monroe Cnty. Bd. of Educ., 526 U.S. 629 (1999), to *Section 504* cases. Under the *Davis standard*, parents must prove that: (1) their child was an individual with a disability; (2) their child was harassed based upon his or her disability; (3) the harassment was sufficiently severe or pervasive that it altered the condition of the child’s education and created an abusive educational environment; (4) the school district knew about the harassment; and (5) the school district was deliberately indifferent to the harassment.

While not precedential in Illinois, several cases illustrate the uncertainty of a school district’s liability in the emerging area of suicide prevention liability and/or failure to properly respond to a student’s mental health issues and may indicate a trend toward courts allowing juries to determine a district’s liability: Armijo v. Wagon Mount Pub. Schs., 159 F.3d 1253 (10th Cir. 1998) (denying summary judgment to two individual defendant district employees based on a state-created danger theory and as to all defendant employees based on a special relationship theory); Estate of Barnwell ex rel. Barnwell v. Watson, 44 F.Supp.3d 859 (E.D. Ark. 2014) (allowing plaintiff parents to move forward in litigation alleging that school district’s *Section 504* failures contributed to their son’s suicide, but summary judgment in favor of school district eventually granted); and Walsh v. Tehachapi Unified Sch. Dist., 997 F.Supp.2d 1071 (E.D. Ca. 2014) (denying summary judgment because the school district’s conduct may have been the proximate cause of the student suffering an uncontrollable impulse to commit suicide). But see Estate of Lance v. Lewisville Indep. Sch. Dist., 743 F.3d 982 (5th Cir. 2014) (finding in favor of the school district because the claimed special relationship theory and state-created danger theories were not actionable).

LEGAL REF.: 42 U.S.C. § 12101 et seq. Individuals with Disabilities Education Act.
105 ILCS 5/2-3.166, 105 ILCS 5/2-3.139, 5/3-14.8, 5/10-20.763 (final citation pending), 5/10-20.81, 5/10-22.24a, 5/10-22.24b, 5/10-22.39, 5/10-20.75 (final citation pending), 5/14-1.01 et seq., 5/14-7.02, and 5/14-7.02b, 5/27-7.
5 ILCS 860/, Student Confidential Reporting Act.
405 ILCS 49/, Children’s Mental Health Act of 2003.
740 ILCS 110/, Mental Health and Developmental Disabilities Confidentiality Act.
745 ILCS 10/, Local Governmental and Governmental Tort Immunity Act.

CROSS REF.: 2:240 (Board Policy Development), 5:100 (Staff Development Program), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 6:120 (Education of Children with Disabilities), 6:270 (Guidance and Counseling Program), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:250 (Student Support Services)

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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](#), [102-199](#), and [102-557](#) and [101-515](#), 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 Protection Act (SOPPA), 105 ILCS 85/, amended by P.A. 101-516, 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/resources/joint-guidance-application-ferpa-and-hipaa-student-health-records.

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 18 years who has been arrested or taken into custody. ⁶

State and federal law grants students, ~~and~~ parents/guardians, and when applicable, the Ill. Dept. of Children and Family Services' Office of Education and Transition Services, certain rights, including the right to inspect, copy⁷, and/or challenge school student records.⁸ The information contained in

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7. SOPPA (105 ILCS 85/, amended by P.A. 101-516) 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, *Use of Educational Technologies; Student Data Privacy and Security*, and administrative procedure 7:345-AP, *Use of Educational Technologies; 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. *Owasso I.S.D. No. I-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 f/n 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), amended by P.A. 102-199, ISSRA does not give DCFS representatives the right to challenge student records. 105 ILCS 10/7. For more information about DCFS liaison qualifications and duties, see sample policy 7:50, School Admissions and Student Transfers To and From Non-District Schools, at f/n 16.

105 ILCS 10/5(c) 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) outlines how a school district may extend the 10 business day 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;

school student 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 The District will comply with State or federal law with regard to release of a student's school records, including, where applicable, without notice to, or the consent of, the student's parent/guardian or eligible student.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

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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.

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

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 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.

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¹² 34 C.F.R. §99.31; 105 ILCS 10/6, amended by P.A.s 102-199 and 102-557.

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.s 101-161 and 102-199; 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-AP1, E1, *Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records*, and 7:340-AP1, *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 IMDMA 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-AP1, E5, *Biometric Information Collection Authorization*.

¹⁸ Districts must reissue 7:340-AP1, 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).

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 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

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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 [5/10-20.40\(b\)\(5\)](#).

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.

- 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, Local Records Act.
105 ILCS 5/10-20.12b, 5/10-20.40, 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)