

Educational Support Personnel

Duties and Qualifications¹

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.

Paraprofessionals²

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 Ill. 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 Personnel Working with Students and Performing Non-Instructional Duties

Nonlicensed 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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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) 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 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 Personnel (Including Nonlicensed 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 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 nonlicensed 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).

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. Nonlicensed 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 nonlicensed 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 nonlicensed 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.

School bus driver permits are issued by the Ill. Secretary of State (SOS). 625 ILCS 5/6-106.1, amended by P.A. 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. 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

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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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.

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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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.
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 f/n 3 for additional discussion.

¹⁰ This sentence is optional. 325 ILCS 5/7.4(c-5). 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

Evaluation¹

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)

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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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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 Leave²

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 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 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

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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 due to illness, injury, medical appointment, or *personal care* of a *covered family member*. 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.

or treatment to the staff member (3) a chiropractic physician licensed under the Medical Practice Act, (4) a licensed advanced practice registered nurse, (5) a licensed physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (6) 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 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.

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

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 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 Bereavement Leave. ¹⁵
6. Leave to serve as an election judge. ¹⁶
7. COVID-19 Paid Administrative Leave. ¹⁷

LEGAL REF.: 105 ILCS 5/10-20.7b, 5/10-20.83 (final citation pending), 5/24-2, 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)

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 5/24-6.3(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/, 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, 102-487, and 102-890) and 56 Ill.Admin.Code Part 280. Important information about this leave is discussed in f/n 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 5 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/n 26-28 for important information about this leave.

Instruction

School Accountability¹

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 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
3. If applicable, develop District and School Improvement Plans, present them for Board approval, and supervise their implementation.⁶

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.

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."

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)

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

⁷ 105 ILCS 5/10-17a, amended by P.A.s 101-68, 102-294 (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 (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.

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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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, 102-584 (e-learning days allowed when a school is selected as a polling place under the Election Code), and 102-697. 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).

- LEGAL REF.: 105 ILCS 5/10-19, 5/10-19.05, 5/10-20.56, 5/10-20.46, 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.
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)

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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 5/13B-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.

Instruction

Administrative Procedure – Remote and/or Blended Remote Learning Day Plan(s)

*Use this procedure in conjunction with the subhead **Suspension of In-Person Instruction; Remote and/or Blended Remote Learning Day Plan(s)** in policy 4:180, *Pandemic Preparedness; Management; and Recovery*.*

When the District must implement a Remote and/or Blended Remote Learning Day Plan (Plan) that designates *remote learning days* (RLDs) and/or *blended remote learning days* (BRLDs) for instruction in grades pre-kindergarten through 12, the Superintendent must approve¹ a Plan, present the Plan to the Board for adoption² prior to its implementation, implement the Plan after Board approval, and post it on the District’s website.

The Superintendent will begin the process of developing a Plan in one of the two following ways:

1. Adapting the District’s e-learning program (adopted by the Board pursuant to 105 ILCS 5/10-20.56) into a Plan³ and ensuring that it is posted on the District’s website and communicated to the community in accordance with this procedure.⁴ See *E-learning Program; Days*, in the **Definitions** subhead below for more information about an e-learning program.
2. Using this procedure if the District has not implemented an e-learning program.⁵

Definitions

Blended Remote Learning Days (BRLDs) – School attendance days during which the District provides hybrid days of in-person and remote instruction to students.⁶ Once the State Superintendent of Education declares that the District must use remote learning days or blended remote learning

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¹ 105 ILCS 5/10-30(3), added by P.A. 101-643, states “the district shall adopt a remote and blended remote learning day plan approved by the district superintendent.” This presents a governance best practice conundrum. For ease of administration, to avoid confusion during implementation and to align with the IASB *Foundational Principles of Effective Governance* (www.iasb.com/principles_popup.cfm), this administrative procedure requires the superintendent to present the approved plan to the board for adoption prior to district-wide implementation and posting on the district’s website. See f/n 13 in sample policy 4:180, *Pandemic Preparedness; Management; and Recovery* for further discussion.

² *Id.*

³ *Id.* at 5/10-30(2), added by P.A. 101-643. If the board has implemented an e-learning program in the district, it should adapt the program into a Plan by ensuring that the requirements for communicating the Plan are met. See f/n 4 below. Consult the board attorney regarding the impact, if any, of 105 ILCS 5/10-20.56(d-10), (d-15), and (d-20), added by P.A. 102-697, which requires boards to pay educational support personnel and contractors their regular rate of pay on e-learning days, unless they are rescheduled. The law limits the number of e-learning days to the minimum number of emergency days in the approved school calendar; it is unclear if those days would still need to be paid in the event an e-learning program is adapted into a Plan. *Id.*

⁴ *Id.* at 5/10-30(6), added by P.A. 101-643.

⁵ *Id.* at 5/10-30(3) and (6), added by P.A. 101-643. See f/n 1, above.

See f/n 3 in sample policy 2:150, *Committees* for a discussion of Open Meetings Act implications of the Remote Learning Committee being a board committee. See IASB’s *Foundational Principles of Effective Governance* at www.iasb.com/principles_popup.cfm.

⁶ The law is silent regarding whether BRLDs must be in-person and remote on the same day or whether they may include in-person instruction on one day and remote learning on different day. BRLDs is a term commonly used in higher education, and in higher education, in-person and remote instruction may take place on the same day or on different days.