

River Forest District 90
PRESS Policy Update Issue 104 – June 2020

Second Reading – October 19, 2020

[illegible]

Document Status: 5-Year-Review - Needs Review

Section 7 - STUDENTS

7:40 Nonpublic School Students, Including Parochial and Home-Schooled Students

Part-Time Attendance

The District accepts nonpublic school students, including parochial and home-schooled students, who live within the District for part-time attendance in the District's regular education program on a space-available basis. Requests for part-time attendance must be submitted to the Building Principal of the school in the school attendance area where the student resides. All requests for attendance in the following school year must be submitted before May 1.

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

Students with a Disability

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

Extracurricular Activities, Including Interscholastic Competition

A nonpublic school student is eligible to participate in: (1) interscholastic competition, provided (1) the student attends a district school for at least one half of the school day, excluding lunch, and (2) non-athletic extracurricular activities, provided the student attends a District school for at least one-half of the regular school day, excluding lunch. A nonpublic student who participates in an extracurricular activity is subject to all policies, regulations, and rules that are applicable to other participants in the activity.

Assignment When Enrolling Full-Time in a District School

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

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

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

LEGAL REF.:

105 ILCS 5/10-20.24 and 5/14-6.01.

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

ADOPTED: October 19, 2015

Document Status: Draft Update

Section 2 - BOARD OF EDUCATION

2:220 Board of Education Meeting Procedure

Agenda

The Board President is responsible for focusing the Board meetings' agendas on appropriate content. The Superintendent shall prepare agendas in consultation with the Board President. The President shall designate a portion of the agenda as a consent agenda for those items that usually do not require extensive discussion before Board of Education action. Upon the request of any Board member, an item will be withdrawn from the consent agenda and placed on the regular agenda for independent consideration.

Each Board meeting agenda shall contain the general subject matter of any item that will be the subject of final action at the meeting. Items submitted by Board of Education members to the Superintendent or the President shall be placed on the agenda for an upcoming meeting. District residents may suggest inclusions for the agenda. The Board will take final action only on items contained in the posted agenda; items not on the agenda may still be discussed.

The Superintendent shall provide a copy of the agenda, with adequate data and background information, to each Board of Education member at least 48 hours before each meeting, except a meeting held in the event of an emergency. The meeting agenda shall be posted in accordance with policy 2:200, *Types of Board of Education Meetings*.

The Board President shall determine the order of business at regular Board of Education meetings. Upon consent of a majority of members present, the order of business at any meeting may be changed.

Voting Method

Unless otherwise provided by law, when a vote is taken upon any measure before the Board of Education, with a quorum being present, a majority of the votes cast shall determine its outcome. A vote of "abstain" or "present," or a vote other than "yea" or "nay," or a failure to vote, is counted for the purposes of determining whether a quorum is present. A vote of "abstain" or "present," or a vote other than "yea" or "nay," or a failure to vote, however, is not counted in determining whether a measure has been passed by the Board, unless otherwise stated in law. The sequence of casting votes shall be alphabetical.

On all questions involving the expenditure of money and on all questions involving the closing of a meeting to the public, a roll call vote shall be taken and entered in the Board's minutes. An individual Board member may request that a roll call vote be taken on any other matter; the President or other presiding officer may approve or deny the request but a denial is subject to being overturned by a majority vote of the members present.

Any Board member may include a written explanation of his/her vote in the District file containing individual Board member statements; the explanation will not be part of the minutes.

Minutes

The Board Secretary shall keep written minutes of all Board of Education meetings (whether open or closed), which shall be signed by the President and the Secretary. The minutes include:

1. The meeting's date, time, and place;
2. Board of Education members recorded as either present or absent;
3. A summary of the discussion on all matters proposed, deliberated, or decided, and a record of any votes taken;
4. On all matters requiring a roll call vote, a record of who voted "yea" and "nay";
5. If the meeting is adjourned to another date, the time and place of the adjourned meeting;
6. The vote of each member present when a vote is taken to hold a closed meeting or portion of a meeting, and the reason for the closed meeting with a citation to the specific exception contained in the Open Meetings Act (OMA) authorizing the closed meeting;
7. A record of all motions, the members making the motion and the second; and
8. Upon request by a Board member, a record of how he or she voted on a particular motion; and
9. The type of meeting, including any notices and, if a reconvened meeting, the original meeting's date.

The minutes shall be submitted to the Board of Education for approval or modification at its next regularly scheduled open meeting. Minutes for open meetings must be approved within 30 days after the meeting or at the second subsequent regular

meeting, whichever is later.

At least semi-annually in an open meeting, the Board: (1) reviews minutes from closed meetings that are currently unavailable for public release, and (2) decides which, if any, no longer require confidential treatment and are available for public inspection. The Board of Education may meet in a prior closed session to review the minutes from closed meetings that are currently unavailable for public release.

The Board's meeting minutes must be submitted to the Board Treasurer at such times as the Treasurer may require.

The official minutes are in the custody of the Board Secretary. Open meetings minutes are available for inspection during regular office hours within 10 days after the Board's approval, in the office of the Superintendent or designee, in the presence of the Secretary, the Superintendent or designee, or any Board of Education member.

Minutes from closed meetings are likewise available, but only if the Board has released them for public inspection, except that Board members may access closed session minutes not yet released for public inspection (1) in the District's administrative offices or their official storage location, and (2) in the presence of the Recording Secretary, the Superintendent or designated administrator, or any elected Board member. The minutes, whether reviewed by members of the public or the Board, shall not be removed from the District's administrative offices or their official storage location except by vote of the Board or by court order.

The Board's open meeting minutes shall be posted on the District website within 10 days after the Board approves them; the minutes will remain posted ~~for at least 60 days.~~

Verbatim Record of Closed Meetings

The Superintendent or the Board Secretary ~~when the Superintendent is absent~~, shall audio record all closed meetings. If neither is present, the Board President or presiding officer shall assume this responsibility. After the closed meeting, the person making the audio recording shall label the recording with the date and store it in a secure location. The Superintendent shall ensure that: (1) an audio recording device and all necessary accompanying items are available to the Board for every closed meeting, and (2) a secure location for storing closed meeting audio recordings is maintained within the central administrative office.

After 18 months have passed since being made, the audio recording of a closed meeting is destroyed provided the Board approved: (1) its destruction, and (2) minutes of the particular closed meeting.

Individual Board members may access verbatim recordings in the presence of the Recording Secretary, the Superintendent or designated administrator, or any elected Board member. Access to the verbatim recordings is available at the District's administrative offices or the verbatim recording's official storage location. Requests shall be made to the Superintendent or Board President. While a Board member is listening to a verbatim recording, it shall not be re-recorded or removed from the District's main office or official storage location, except by vote of the Board or by court order.

Before making such requests, Board members should consider whether such requests are germane to their responsibilities, service to District, and/or Oath of Office in policy 2:80, *Board Member Oath and Conduct*. In the interest of encouraging free and open expression by Board members during closed meetings, the recordings of closed meetings should not be used by Board members to confirm or dispute the accuracy of recollections.

Quorum and Participation by Audio or Video Means

A quorum of the Board must be physically present at all Board meetings. A majority of the full membership of the Board of Education constitutes a quorum.

Provided a quorum is physically present, a Board member may attend a meeting by video or audio conference. A Board member who attends a meeting by audio or video means, as provided in this policy, may participate in all aspects of the Board meeting including voting on any item.

No Physical Presence of Quorum and Participation by Audio or Video: Disaster Declaration [PRESSPlus1](#)

The ability of the Board to meet in person with a quorum physically present at its meeting location may be affected by the Governor or the Director of the Ill. Dept. of Public Health issuing a disaster declaration related to a public health emergency. [PRESSPlus2](#) The Board President or, if the office is vacant or the President is absent or unable to perform the office's duties, the Vice President determines that an in-person meeting or a meeting conducted under the **Quorum and Participation by Audio or Video Means** subhead above, is not practical or prudent because of the disaster declaration. If neither the President nor Vice President are present or able to perform this determination, the Superintendent shall serve as the duly authorized designee for purposes of making this determination. [PRESSPlus3](#)

The individual who makes this determination for the Board shall put it in writing, include it on the Board's published notice and agenda for the audio or video meeting and in the meeting minutes. [PRESSPlus4](#) and ensure that the Board meets every OMA requirement for the Board to meet by video or audio conference without the physical presence of a quorum. [PRESSPlus5](#)

Rules of Order

Unless State law or Board-adopted rules apply, the Board President, as the presiding officer, will use *Robert's Rules of Order, Newly Revised* (11th Edition), as a guide when a question arises concerning procedure.

Broadcasting and Recording Board Meetings

Any person may record or broadcast an open Board meeting. Special requests to facilitate recording or broadcasting an open Board meeting, such as seating, writing surfaces, lighting, and access to electrical power, should be directed to the Superintendent at least 24 hours before the meeting.

Recording meetings shall not distract or disturb Board members, other meeting participants, or members of the public. The Board President may designate a location for recording equipment, may restrict the movements of individuals who are using recording equipment, or may take such other steps as are deemed necessary to preserve decorum and facilitate the meeting.

LEGAL REF.:

5 ILCS 120/2a, 120/2.02, 120/2.05, and 120/2.06, and 120/7.

[105 ILCS 5/10-6](#), [5/10-7](#), [5/10-12](#), and [5/10-16](#).

CROSS REF.: 2:80 (Board Member Oath and Conduct), [2:150 \(Committees\)](#), 2:200 (Types of School Board Meetings), ~~2:150 (Committees)~~, 2:210 (Organizational Board of Education Meeting), 2:230 (Public Participation at Board of Education Meetings and Petitions to the Board)

Adopted: January 21, 2020

PRESSPlus Comments

PRESSPlus 1. 5 ILCS 120/2.01 and 120/7(e)(1)-(10), amended by P.A. 101-640. See also 105 ILCS 5/10-6 and 5/10-12. During the 2020 COVID-19 pandemic, Ill. Gov. Pritzker issued Executive Order (EO) 2020-07 pursuant to 20 ILCS 3305/7 (disaster proclamation due to public health emergency) that temporarily suspended OMA's physical quorum requirement. The Governor extended this OMA relief through subsequent Executive Orders as the crisis continued. See EOs 2020-18, 2020-33, and 2020-39. During the period covered by EO 2020-39, 5 ILCS 120/7(e), amended by P.A. 101-640 was enacted, immediately requiring public bodies to meet a number of conditions before suspending the physical quorum requirement.

Boards must remember that public comment is still required when a quorum is not physically present at the meeting location. See Public Comment section of the Ill. Atty. Gen.'s guidance entitled *Guidance to Public Bodies on the Open Meetings Act and the Freedom of Information Act During the COVID-19 Pandemic* on p. 5 at: www.foia.ilattorneygeneral.net/pdf/OMA_FOIA_Guide.pdf. **Issue 104, June 2020**

PRESSPlus 2. The phrase "due to public health emergency" aligns with Ill. Emergency Act (IEMA), 20 ILCS 3305/4 and 7, which provides the governor with the power to declare a disaster. 5 ILCS 120/7(e)(1), amended by P.A. 101-640, uses the phrase "related to public health concerns because [the governor has declared] a disaster" and while not aligning with IEMA text, means "public health emergency." For ease of understanding and alignment with IEMA, this policy uses "public health emergency."

To avoid confusion, note that the triggers under 5 ILCS 120/7(e), amended by P.A. 101-640, for when a school board may conduct its meetings by audio or video conference without the physical presence of a quorum are a bit more broad than the School Code's triggers to implement remote and/or blended remote learning days (RLD/BRLDs). OMA states (1) the "governor or the director of IDPH has issued a disaster declaration of a disaster as defined in 20 ILCS 3305/" This means that it is possible for the board to meet remotely if the director of IDPH declares a disaster under OMA, but that may not mean a district must implement RLD/BRLDs because the School Code states that the governor must declare the disaster. **Issue 104, June 2020**

PRESSPlus 3. 5 ILCS 120/7(e)(2), amended by P.A. 101-640 states "the head of the public body as defined in [the Freedom of Information Act (FOIA), 5 ILCS 140/2(e), FOIA]." FOIA defines *head of the public body* to mean the *president* or "such person's duly authorized designee." 5 ILCS 140/2(e). Policy 2:110, *Qualifications, Term, and Duties of Board Officers*, designates the vice president to perform the duties of the president if that office is vacant or he or she is absent or unable to perform the office's duties.

For practical purposes if a disaster is declared due to a public health concern, this policy designates the superintendent as "[the president or vice president's] duly authorized designee" pursuant to the authority of 5 ILCS 140/2(e) for the board to move forward with the required determination to meet by audio or video with no physical presence of a quorum. **Issue 104, June 2020**

PRESSPlus 4. While this phrase of the sentence is not required in OMA, many attorneys agree that transparency best practices in this situation include the individual making the determination to: (1) put it in writing referring to the specific disaster declaration applicable to the board's jurisdiction and the public health concern/public health emergency that applies to not having an in-person meeting; and (2) include that written determination (a) on the board's published notice and agenda for the audio or video meeting, and (b) in the meeting minutes. **Issue 104, June 2020**

PRESSPlus 5. See 2:220-E9, *Requirements for No Physical Presence of Quorum and Participation by Audio or Video During Disaster Declaration*. Find this sample Board exhibit at your PRESS Plus dashboard under the Status **Draft Update - New. Issue 104, June 2020**

Document Status: Draft Update

Board of Education Meeting Procedure

2:220-E2 Exhibit - Motion to Adjourn to Closed Meeting

Motion to Adjourn to Closed Meeting

Date: _____ Time: _____ Location: _____

A motion was made by _____, and seconded by _____, to adjourn to closed meeting to discuss:

☐ The appointment, employment, compensation, discipline, performance, or dismissal of specific employees, specific individuals who serve as independent contractors, or specific volunteers of the District or legal counsel for the District, including hearing testimony on a complaint lodged against an employee, a specific individual who serves as an independent contractor, or a volunteer of the District or against legal counsel for the District to determine its validity. However, a meeting to consider an increase in compensation to a specific employee of a public body that is subject to the Local Government Wage Increase Transparency Act may not be closed and shall be open to the public and posted and held in accordance with this Act. 5 ILCS 120/2(c)(1), amended by P.A. 99-646 101-459. PRESSPlus1

☐ Collective negotiating matters between the District and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees. 5 ILCS 120/2(c)(2).

☐ The selection of a person to fill a public office, including a vacancy in a public office, when the District is given power to appoint under law or ordinance, or the discipline, performance or removal of the occupant of a public office, when the District is given power to remove the occupant under law or ordinance. 5 ILCS 120/2(c)(3).

☐ Evidence or testimony presented in open hearing, or in closed hearing where authorized by law, to a quasi-judicative body, as defined in this Act, provided that the body prepares and makes available for public inspection a written decision with its determinative reasoning. 5 ILCS 120/2(c)(4).

☐ The purchase or lease of real property for the use of the District, including meetings held for the purpose of discussing whether a particular parcel should be acquired. 5 ILCS 120/2(c)(5).

☐ The setting of a price for sale or lease of property owned by the District. 5 ILCS 120/2(c)(6).

☐ The sale or purchase of securities, investments, or investment contracts. 5 ILCS 120/2(c)(7).

☐ Security procedures, school building safety and security, and the use of personnel and equipment to respond to an actual, a threatened, or a reasonably potential danger to the safety of employees, students, staff, the public, or public property. 5 ILCS 120/2(c)(8), amended by P.A. 99-235.

☐ Student disciplinary cases. 5 ILCS 120/2(c)(9).

☐ The placement of individual students in special education programs and other matters relating to individual students. 5 ILCS 120/2(c)(10).

☐ Litigation, when an action against, affecting or on behalf of the particular District has been filed and is pending before a court or administrative tribunal, or when the District finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the closed meeting minutes. 5 ILCS 120/2(c)(11).

☐ The establishment of reserves or settlement of claims as provided in the Local Government and Governmental Employees Tort Immunity Act, if otherwise the disposition of a claim or potential claim might be prejudiced, or the review or discussion of claims, loss or risk management information, records, data, advice or communications from or with respect to any insurer of the District or any intergovernmental risk management association or self insurance pool of which the District is a member. 5 ILCS 120/2(c)(12).

☐ Self-evaluation, practices and procedures, or professional ethics, when meeting with a representative of a statewide association of which the District is a member. 5 ILCS 120/2(c)(16).

☐ Discussion of lawfully closed meeting minutes, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06. [5 ILCS 120/2\(c\)\(21\)](#).

☐ Meetings between internal or external auditors and governmental audit committees, finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews conducted in accordance with generally accepted auditing standards of the United States of America. [5 ILCS 120/2\(c\)\(29\)](#).

Closed Meeting Roll Call:

"Yeas"	"Nays"
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Motion carried.

~~DATED: January 17, 2017~~

PRESSPlus Comments

PRESSPlus 1. Updated in response to the Open Meetings Act (OMA), 5 ILCS 120/2(c)(1), amended by P.A. 101-459. **Issue 102, October 2019**

Document Status: Draft Update

Board of Education Meeting Procedure

2:220-E6 Exhibit - Log of Closed Meeting Minutes

Log of Closed Meeting Minutes

The purpose of this log is to facilitate the Board's semi-annual review of closed meeting minutes. See 2:220-E5, *Semi-Annual Review of Closed Meeting Minutes*.

The Board Secretary or Recording Secretary shall maintain a list of closed meeting minutes, arranged according to the reason for the closed meeting, that have not been released for public inspection.

Closed Session Held to Discuss:	Dates of Closed Sessions		
Specific employee(s), <u>specific independent contractors</u> , <u>specific volunteers</u> , or District legal counsel; however, a meeting to consider an increase in compensation to a specific employee of a public body that is subject to the Local Government Wage Increase Transparency Act may not be closed and shall be open to the public and posted and held in accordance with [the Open Meetings Act]. 5 ILCS 120/2(c)(1), amended by P.A. 99-646101-459. <u>PRESSPlus1</u>			
Collective negotiating matters or deliberations concerning salary schedules for one or more classes of employees. <u>5 ILCS 120/2(c)(2)</u> .			
Selection of a person to fill a vacancy on the Board. <u>5 ILCS 120/2(c)(3)</u> .			
Evidence or testimony presented in a hearing where authorized by law. <u>5 ILCS 120/2(c)(4)</u> .			
Purchase or lease of real property. <u>5 ILCS 120/2(c)(5)</u> .			
Setting of a price for sale or lease of District property. <u>5 ILCS 120/2(c)(6)</u> .			
Sale or purchase of securities, investments, or investment contracts. <u>5 ILCS 120/2(c)(7)</u> .			
Security procedures and the use of personnel and equipment to respond to an actual, a threatened, or a reasonably potential danger. <u>5 ILCS 120/2(c)(8)</u> .			
Student disciplinary cases. <u>5 ILCS 120/2(c)(9)</u> . <i>Minutes of meetings held for this reason shall never be released to protect the individual student's privacy.</i>			
Any matter involving an individual student. <u>5 ILCS 120/2(c)(10)</u> . <i>Minutes of meetings held for this reason shall never be released to protect the individual student's privacy.</i>			
Litigation, when an action against, affecting, or on behalf of the District has been filed and is pending before a court or administrative tribunal, or when the Board finds that an action is probable or imminent. <u>5 ILCS 120/2(c)(11)</u> .			
Establishment of reserves or settlement of claims as provided in the Local Government and Governmental Employees Tort Immunity Act or discussion of claims, loss or risk management information, records, data, advice or communications from or with respect to any insurer of the District or any intergovernmental risk management association or self insurance pool. <u>5 ILCS 120/2(c)(12)</u> .			
Self-evaluation, practices and procedures or professional ethics, when meeting with an IASB representative. <u>5 ILCS 120/2(c)(16)</u> .			

Minutes of meetings lawfully closed, whether for purposes of approval or semi-annual review. 5 ILCS 120/2(c)
2:220-E6

minutes of meetings lawfully closed, whether for purposes of approval or semi-annual review. [5 ILCS 120/2\(c\)](#) (21).

Meetings between internal or external auditors and governmental audit committees, finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews conducted in accordance with generally accepted auditing standards of the United States of America. [5 ILCS 120/2\(c\)](#)(29).

DATED: January 17, 2017

PRESSPlus Comments

PRESSPlus 1. Updated in response to the Open Meetings Act (OMA), 5 ILCS 120/2(c)(1), amended by P.A. 101-459. **Issue 102, October 2019**

Document Status: Draft Update

Section 7 - STUDENTS

7:190 Student Behavior

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.

When and Where Conduct Rules Apply

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:

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, *including remote learning*.
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.

Prohibited Student Conduct

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.
2. Using, possessing, distributing, purchasing, or selling alcoholic beverages. 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*).
 - b. Any anabolic steroid unless it is being administered in accordance with a physician's or licensed practitioner's prescription.
 - 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.
 - d. Any prescription drug when not prescribed for the student by a physician or licensed practitioner, or when used in a manner inconsistent with the prescription or prescribing physician's or licensed practitioner's instructions. The use or possession of medical cannabis, even by a student for whom medical cannabis has been prescribed, is prohibited unless the student is authorized to be administered a medical cannabis infused product under *Ashley's Law*.
 - 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.
 - g. *Look-alike* or counterfeit drugs, including a substance that is not prohibited by this policy, but one: (a) that a student believes to be, or represents to be, an illegal drug, controlled substance, or other substance that is prohibited by this policy; or (b) about which a student engaged in behavior that would lead a reasonable person to believe that the student expressly or impliedly represented to be an illegal drug, controlled substance, or other substance that is

prohibited by this policy.

- 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.

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.
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 mobile phone devices must be kept powered-off and out-of-sight during the regular school day unless: (a) the supervising teacher grants permission; (b) use of the device is provided in a student's individualized education program (IEP); (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.
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.
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*.
12. Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person's personal property.
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.
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.
17. Being involved in gangs or gang-related activities, including displaying gang symbols or paraphernalia.
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.
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.
21. Engaging in any activity, on or off campus, that interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property.

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.

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. 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.

Disciplinary Measures

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

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.
6. In-school suspension. The Building Principal or designee shall ensure that the student is properly supervised.
7. After-school study or Saturday study 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. The District will not provide transportation. School administration shall use this option only as an alternative to another disciplinary measure, giving the student and/or parent/guardian the choice.
9. Seizure of contraband; confiscation and temporary retention of personal property that was used to violate this policy or school disciplinary rules.
10. Suspension of bus riding privileges in accordance with Board policy 7:220, *Bus Conduct*.
11. Out-of-school suspension from school and all school activities in accordance with Board policy 7:200, *Suspension Procedures*. A student who has been suspended shall also be restricted from being on school grounds and at school activities.
12. Expulsion from school and all school activities for a definite time period not to exceed 2 calendar years in accordance with Board policy 7:210, *Expulsion Procedures*. A student who has been expelled shall also be restricted from being on school grounds and at school activities.
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.
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.

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.

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.

Isolated Time Out, Time Out, and Physical Restraint^{Q1}

~~School staff members shall not use isolated time out and physical restraints other than as permitted in Section 10-20.33 of the School Code, State Board of Education rules, and procedures developed by the Superintendent. Neither isolated time out, time out, nor physical restraints shall be used to discipline or punish a student. These methods are only authorized for use as permitted in 105 ILCS 5/10-20.33, State Board of Education rules (23 Ill. Admin. Code §§ 1.280, 1.285), and the District's procedure(s).~~

Weapons

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

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

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

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.

Re-Engagement of Returning Students

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

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. 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. *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.

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

Student Handbook

The Superintendent, with input from the parent-teacher advisory committee, 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.

Incorporated

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

LEGAL REF.:

[20 U.S.C. §6081](#), Pro-Children Act of 1994.

[20 U.S.C. §7961](#) et seq., Gun Free Schools Act.

[105 ILCS 5/10-20.5b](#), [5/10-20.14](#), [5/10-20.28](#), [5/10-20.36](#), [5/10-21.7](#), [5/10-21.10](#), [5/10-22.6](#), [5/10-27.1A](#), [5/10-27.1B](#), [5/22-33](#), [5/24-24](#), [5/26-12](#), [5/27-23.7](#), [5/31-3](#), and [110/3.10](#).

[410 ILCS 130/](#), Compassionate Use of Medical Cannabis Pilot Program.

[410 ILCS 647/](#), Powdered Caffeine Control and Education Act.

[430 ILCS 66/](#), Firearm Concealed Carry Act.

23 Ill.Admin.Code §§ 1.280, [1.285](#).

CROSS REF.: 2:150 (Committees), 2:240 (Board Policy Development), 5:230 (Maintaining Student Discipline), 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 7:70 (Attendance and Truancy), 7:130 (Student Rights and Responsibilities), 7:140 (Search and Seizure), 7:150 (Agency and Police Interviews), 7:160 (Student Appearance), 7:170 (Vandalism), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:200 (Suspension Procedures), 7:210 (Expulsion Procedures), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:270 (Administering Medicines to Students), 7:310 (Restrictions on Publications; Elementary Schools), 8:30 (Visitors to and Conduct on School Property)

Adopted: February 19, 2019

Questions and Answers:

***Required Question 1. In late November 2019 and early 2020, in response to investigative journalism articles, ISBE issued emergency rules and subsequent amendments to those emergency rules that significantly limited the use of isolated time out and physical restraint. ISBE adopted permanent rules governing the use of isolated time out, time out, and physical restraint (permitted under limited circumstances and only until July 1, 2021), effective April 9, 2020.

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*, available at PRESS Online by logging in at www.iasb.com. **By default, this policy allows the use of isolated time out, time out, and physical restraint pursuant only to the conditions allowed in the School Code and ISBE rules.** State statute and ISBE rules contain complex restrictions on the use of isolated time out, time out, and physical restraint. 105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §§1.280(c) and 1.285. According to the ISBE rule, isolated time out, time out, and physical restraints are allowed only if a board authorizes their use in a policy containing the numerous components identified in the rule. To comply with ISBE's rule, a board must also incorporate by reference the district's procedure, i.e., 7:190-AP4, *Use of Isolated Time Out, Time Out, and Physical Restraint*. By doing this, the policy includes the district's procedure.

Does the Board allow or prohibit the use of isolated time out, time out, and physical restraint?

- The Board allows the use of isolated time out, time out, and physical restraint. (Default)
 - The Board prohibits the use of isolated time out, time out, and physical restraint. (IASB will delete this subhead and its contents, amend the Legal Reference, and delete the Incorporated by Reference line.)
-

Document Status: Draft Update

Section 7 - STUDENTS

7:340 Student Records

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

State and Federal laws grant students and parent(s)/guardian(s) certain rights, including the right to inspect, copy, and challenge school student records. The information contained in 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.

The District may release directory information as permitted by law, but parent(s)/guardian(s) shall have the right to ~~object to opt-out of~~ the release of directory information regarding his or her child. However, the District will comply with an *ex parte* court order requiring it to permit the U.S. Attorney General or designee to have access to a student's school records without notice to, or the consent of, the student's parent/guardian. [PRESSPlus1](#)

Neither the District nor any of its employees or school officials shall release, disclose, or grant access to information found in any student record without parents/guardians written consent, except as permitted by State or federal law. One exception to the parent/guardian consent requirement is that student record information may be released to District employees or school officials, or employees or officials of the Illinois State Board of Education, who have a current, demonstrable educational or administrative interest in the student, in furtherance of such interest. A "current, demonstrable educational or administrative interest" means that the person requires access to the student record information to perform his or her required services or functions for the District. A "school official" is defined as:

1. A Board member;
2. An attorney;
3. An auditor;
4. An insurance representative;
5. An independent evaluator; or
6. A contractor, consultant, volunteer, or other party to whom the District has outsourced institutional services or functions, provided that the outside party:
 - a. Performs an institutional service or function for which the District would otherwise use employees;
 - b. Is under the direct control of the District with respect to the use and maintenance of student record information; and
 - c. Is subject to the confidentiality requirements for the use and redisclosure of individually identifiable information from student records.

"School officials" may also be third-party Internet or cloud-based educational service providers utilized by the District, including but not limited to the products, software, subscriptions, tools, and mobile applications provided by the service providers/vendors. Some examples of these Internet or cloud-based educational services include, but are not limited to:

- Cloud storage (e.g., Dropbox.com, Google Docs.),
- Document sharing and editing applications (e.g., Turnitin.com),
- Differentiated instruction (e.g., Compass Learning),
- E mail services (e.g., Gmail),
- Game-based learning applications (e.g., BrainPop, Kahoo.it),
- Learning platforms/management systems (e.g., Schoology, Moodle, Edmodo, Khan Academy),
- Library management systems, subscriptions/e-book websites (e.g., Follett Destiny, CLIO, Mackin Via),
- Notification systems (e.g., School Messenger), and
- Productivity tools (e.g., Google Apps for Education).

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.

LEGAL REF.:

20 U.S.C. §1232g, Family Educational Rights and Privacy Act, implemented by 34 C.F.R. Part 99.

50 ILCS 205/7.

105 ILCS 5/10-20.21b, 5/20.37, 5/20.40, and 5/14-1.01 et seq.

105 ILCS 10/, III. 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, III. 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.: 5:130 (Responsibilities Concerning Internal Information), 7:15 (Student and Family Privacy Rights), 7:17 (Directory Information), 7:220 (Bus Conduct), 7:345 (Use of Educational Technologies; Student Data Privacy and Security)

~~ADOPTED: January 19, 2016~~

~~REVISED: February 21, 2016; February 19, 2018~~

PRESSPlus Comments

PRESSPlus 1. Updated with continuous improvement changes based on feedback from the Ill. Council of School Attorneys. **Issue 104, June 2020**

Document Status: Draft Update - New

2:220-E9 Exhibit - Requirements for No Physical Presence of Quorum and Participation by Audio or Video During Disaster Declaration

New/Unpublished Section

Use this exhibit to document the Board's and/or its committee(s)'s (5 ILCS 120/1.02) processes to comply with the requirements of the Open Meetings Act (OMA) when a board and/or its committee(s) must meet during a disaster declaration related to a public health emergency/concern and the meeting will have no physical presence of a quorum and participation by audio or video. [PRESSPlus1](#)

Note: If a Board committee uses this exhibit, replace Board President, Vice President, and Supt. with the appropriate committee leaders.

Consult the Board Attorney for guidance.

Documentation of OMA Requirements for Board Members to Participate in a Meeting with No Physical Presence of Quorum

☐ The Governor or the Director of the Ill. Dept. of Public Health has issued a disaster declaration related to a public health emergency because of a disaster as defined in 20 ILCS 3305/4, and all or part of the jurisdiction of the Board is covered by the disaster area. 5 ILCS 120/7(e)(1), amended by P.A. 101-640. **Note:** OMA uses "public health concerns," but the Ill. Emergency Management Act (IEMA) uses "public health emergency;" this exhibit matches the IEMA term because it governs disaster declarations.

Insert Disaster Declaration or Executive Order number [] or attach to this document.

☐ The Board President or, if the office is vacant or the President is absent or unable to perform the office's duties, the Vice President, or if neither the President nor Vice President are present or able to perform this determination, the Superintendent (5 ILCS 120/7(e)(2), amended by P.A. 101-640, and 140/2(e)) signs below that the following three **Steps** were executed by:

Step 1. Determining whether the meeting is a bona fide emergency (5 ILCS 120/7(e)(7), amended by P.A. 101-640) (check Yes or No, below):

☐ Yes; it is an emergency meeting, and I:

- A. Notified the Board members and the public, including any news medium which has filed an annual request for notice of meetings as soon as practicable, but in any event prior to the holding of such meeting pursuant to 5 ILCS 120/2.02(a) and 120/7(e)(7)(A), amended by P.A. 101-640;
- B. Stated the nature of the emergency at the beginning of the meeting; and
- C. Provided the Superintendent or Board Secretary the resources necessary during the meeting to keep a verbatim record of the meeting, **for both open and closed**, and managed it the same way that the Board complies with the verbatim recording requirements for closed meetings (see exhibit 2:220-E1, *Board Treatment of Closed Meeting Verbatim Recordings and Minutes*). **Note:** In this situation, a verbatim recording is not limited to closed meetings only.
- D. Move to Step 2, below.

☐ No; it is a regular or special meeting, and I:

- A. Ensured that the Board provided 48 hours' notice of the meeting to all Board members, to any news medium on file in the District that have requested notice of meetings pursuant to 5 ILCS 120/2.02(a), and to members of the public by posting it on the District's website. 5 ILCS 120/7(e)(7), amended by P.A. 101-640. **Note:** 5 ILCS 120/7(e), amended by P.A. 101-640 does not have the "if any" exception for school boards that do not have websites. Consult the board attorney regarding alternate ways to communicate notice of a meeting when the district does not have a website and a Disaster Declaration or Executive Order has been issued.

Insert meeting date and time, and a link to the meeting notice or attach a copy of the notice to this document.

- B. Moves to Step 2, below.

Step 2. Determining whether it is practical, prudent, or feasible for any in-person attendance at the regular meeting location (5 ILCS 120/7(e)(2), amended by P.A. 101-640). (check Yes or No, below):

☐ Yes; in-person attendance is practical, prudent, or feasible, and I:

- A. Ensured that at least one Board member, the Board Attorney, or the Superintendent was physically present at the regular meeting location (5 ILCS 120/7(e)(5), amended by P.A. 101-640), and
- B. Verified that members of the public who were present could hear all discussion and testimony and all votes of the members of the Board. 5 ILCS 120/7(e)(4), amended by P.A. 101-640.
- C. Move to Step 3, below.

☐ No; in-person attendance is not practical, prudent, or feasible, and I:

- A. Made a written determination referring to the specific Executive Order or Disaster Declaration citing the public health concern/emergency that applies to the Board and the meeting. 5 ILCS 120/7(e)(1) and (2), amended by P.A. 101-640.
- B. Included the written determination made in letter A., above, on the Board's published notice and agenda for the alternative arrangements for the meeting. 5 ILCS 120/7(e)(7)(A)-(B), amended by P.A. 101-640.
- C. Offered the alternative arrangements to the public by offering a telephone number or a web-based link. 5 ILCS 120/7(e)(4), amended by P.A. 101-640.

Insert a link to the meeting notice or attach a copy of the notice or refer to above if already attached to this document (see above).

Include this written determination on the Board/committee's published notice and agenda for the audio or video meeting, and in the meeting minutes.

D. Move to Step 3, below.

Step 3. During the meeting, I:

☐ Directed the Recording Secretary to, in addition to the requirements for open meetings under OMA, also keep verbatim record of the open meeting by recording it and making it open and available to the public under all provisions of OMA. 5 ILCS 120/7(e)(9), amended by P.A. 101-640. *Sample text follows below in the subhead below* **Report to the Public Following the Board's Meeting with No Physical Presence of Quorum.**

☐ Read my written determination referring to the specific Executive Order or Disaster Declaration citing the public health concern/emergency that applies to the Board and the meeting and directed the Recording Secretary to include it in the meeting minutes.

☐ Ensured that any interested member of the public has access to contemporaneously hear all discussion, testimony, and roll call votes. 5 ILCS 120/7(e)(4), amended by P.A. 101-640.

☐ Requested the Recording Secretary to enter into the appropriate minutes of the Board that each Board member participating in the meeting, wherever their physical locations, announced:

1. Themselves present (5 ILCS 120/7(e)(3), amended by P.A. 101-640), and
2. A verification that they could hear one another and all discussion and testimony. Id.

See 2:220-E3, *Closed Meeting Minutes* and/or 2:220-E4, *Open Meeting Minutes*.

Attach to this document copies or information about where these minutes may be found.

☐ Announced and considered each Board member participating in the meeting present at the meeting for purposes of determining a quorum and participating in all proceedings (5 ILCS 120/7(e)(8), amended by P.A. 101-640) and directed the Recording Secretary to reflect it in the minutes (best practice for transparency).

☐ Conducted all votes by roll call, so each Board member's vote on each issue could be identified and recorded (5 ILCS 120/7(e)(6), amended by P.A. 101-640), and ensured that the Recording Secretary entered all votes as **Roll Call Votes** (Use exhibit 2:220-E4, *Open Meeting Minutes* but ensure all votes are recorded as roll call votes pursuant to the example below):

"Yeas"	"Nays"
--------	--------

Motion: ☐ Carried ☐ Failed

☐ Executed or directed execution of the subhead below **Report to the Public Following the Board's Meeting with No Physical Presence of Quorum.**

Report to the Public Following the Board's Meeting with No Physical Presence of Quorum

The text below may be used for the actual report.

The School Board met on *[insert date]* with no physical presence of quorum to conduct its business.

The verbatim *[circle one]* audio | video recording of this meeting is available to the public under all provisions of OMA and will be destroyed pursuant to 5 ILCS 120/2.06(c) (no less than 18 months after the completion of the meeting recorded but only after: (1) the Board approves the destruction of the particular recording; and (2) the Board approves minutes of the meeting that meet the written minutes requirements of OMA). 5 ILCS 120/7(e)(9), amended by P.A. 101-640.

Insert links to the verbatim recording of meeting here or attach to this document.

Note: Consult the board attorney for guidance on the destruction of a verbatim recording of an open meeting without the physical presence of a quorum. While 5 ILCS 120/2.06(c) refers to the process for destroying closed session verbatim recordings, 5 ILCS 120/7(e)(9), amended by P.A. 101-640, applies that process for destroying closed session verbatim recordings to the destruction of the verbatim open session recordings that are required when a board determines it is necessary for it to meet without the physical presence of a quorum due to a public health emergency.

Completed By: _____

Title: _____

PRESSPlus Comments

PRESSPlus 1. During the special Illinois legislative session held at the end of May, the General Assembly codified the Governor's Executive Orders relaxing the in-person physical quorum requirement under the Open Meetings Act (OMA) during a disaster declaration related to a public health emergency. Use this exhibit for assistance with meeting the statutory requirements of the amendments to the OMA, 5 ILCS 120/7(e)(1)-(10), amended by P.A. 101-640. Boards are encouraged to consult their attorneys for assistance with this exhibit. **Issue 104, June 2020**

Document Status: Draft Update - New

7:345 Use of Educational Technologies; Student Data Privacy and Security

New/Unpublished Section

Educational technologies used in the District shall further the objectives of the District's educational program, as set forth in Board policy 6:10, *Educational Philosophy and Objectives*, align with the curriculum criteria in policy 6:40, *Curriculum Development*, and/or support efficient District operations. The Superintendent shall ensure that the use of educational technologies in the District meets the above criteria. [PRESSPlus1](#)

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

Federal and State law govern the protection of student data, including school student records and/or *covered information*. [PRESSPlus2](#) The sale, rental, lease, or trading of any school student records or covered information by the District is prohibited. [PRESSPlus3](#) Protecting such information is important for legal compliance, District operations, and maintaining the trust of District stakeholders, including parents, students and staff. [Q1](#)

Definitions

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

Operators are entities (such as educational technology vendors) that operate Internet websites, online services, online applications, or mobile applications that are designed, marketed, and primarily used for K-12 school purposes. [PRESSPlus4](#)

Breach means the unauthorized acquisition of computerized data that compromises the security, confidentiality or integrity of covered information maintained by an operator or the District. [PRESSPlus5](#)

Operator Contracts

The Superintendent or designee designates which District employees are authorized to enter into written agreements with operators for those contracts that do not require separate Board approval. [PRESSPlus6](#) Contracts between the Board and operators shall be entered into in accordance with State law and Board policy 4:60, *Purchases and Contracts*, and shall include any specific provisions required by State law. [PRESSPlus7](#)

Security Standards

The Superintendent or designee shall ensure the District implements and maintains reasonable security procedures and practices that otherwise meet or exceed industry standards designed to protect covered information from unauthorized access, destruction, use, modification, or disclosure. [PRESSPlus8](#) In the event the District receives notice from an operator of a breach or has determined a breach has occurred, the Superintendent or designee shall also ensure that the District provides any breach notifications required by State law. [PRESSPlus9](#)

LEGAL REF.:

20 U.S.C. §1232g, Family and Educational Rights and Privacy Act, implemented by 34 C.F.R. Part 99.

105 ILCS 10/, Ill. School Student Records Act.

105 ILCS 85/, Student Online Personal Protection Act.

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

Questions and Answers:

***Required Question 1. SOPPA permits, but does not require, districts to designate an appropriate staff person as a Privacy

Officer, who may also be an official records custodian under ISSRA, to carry out the duties and responsibilities assigned to schools and to ensure a district's compliance with the requirements of SOPPA. 105 ILCS 85/27(f), added by P.A. 101-516, eff. 7-1-21. Boards may designate an individual other than the Superintendent to serve in the capacity of Privacy Officer, such as a Business Manager, IT Director, or District Records Custodian.

Has the Board designated a Privacy Officer?

☐ No. (default)

☒ Yes, the Superintendent is designated to serve as Privacy Officer. (IASB will add the following sentence: "The Board designates the Superintendent to serve as Privacy Officer, who shall ensure the District complies with the duties and responsibilities required of it under the Student Online Personal Protection Act, 105 ILCS 85/, amended by P.A. 101-516, eff. 7-1-21.")

☐ Yes, a title other than Superintendent has been designated to serve as Privacy Officer. (IASB will add the following sentence: "The Board designates the [Insert Title] to serve as Privacy Officer, who shall ensure the District complies with the duties and responsibilities required of it under the Student Online Personal Protection Act, 105 ILCS 85/, amended by P.A. 101-516, eff. 7-1-21.") What is the Privacy Officer's Title?:

Director of Technology

PRESSPlus Comments

PRESSPlus 1. The Student Online Personal Protection Act (SOPPA) (105 ILCS 85/), amended by P.A. 101-516, eff. 7-1-21, specifically requires boards to adopt a policy for designating which district employees are authorized to enter into agreements with *operators* (see **Operator Contracts** subhead). SOPPA is the State law that governs how educational technology companies, schools, and the Ill. State Board of Education (ISBE) use and protect *covered information* of students. The amendments to SOPPA were intended to strengthen protections for online student data, in part by centralizing the vetting and contracting process within schools, and to give parents ready access to information about how their children's data is being used at school. SOPPA does not, however, require a district to obtain parent opt-in or separate consent for the use of online services or applications, nor is such consent required if the operator is acting as a *school official* pursuant to the delineated exception in the Family Educational Rights and Privacy Act's (FERPA)(20 U.S.C. §1232g) implementing regulations. See 34 C.F.R. §99.3(a). **Issue 104, June 2020**

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

Covered information is a broader concept than student records, and may include information that does not qualify as a student record. However, even if the covered information is not maintained as a student record, it may still qualify as a *public record* under the Local Records Act (50 ILCS 205/), such that a district would have an obligation to maintain it. Consult the board attorney for guidance on these issues. **Issue 104, June 2020**

PRESSPlus 3. 105 ILCS 85/26(1), added by P.A. 101-516, eff. 7-1-21. SOPPA includes a clarification that schools and operators are not prohibited from producing and distributing, free or for consideration, student class photos and yearbooks to the school, students, parents, or others authorized by parents, as long as there is a written agreement between the operator and district. 105 ILCS 85/30(10), amended by P.A. 101-516, eff. 7-1-21. **Issue 104, June 2020**

PRESSPlus 4. SOPPA specifically provides that it does not apply to general audience websites, online services, online applications, or mobile applications, even if login credentials are required to access the general audience sites, services, or applications. 105 ILCS 85/30(3), amended by P.A. 101-516, eff. 7-1-21. Consult the board attorney for guidance regarding whether certain applications that may be widely used by schools, but which may not have been originally marketed to K-12 (e.g., certain video conference applications), come within the scope of SOPPA. **Issue 104, June 2020**

PRESSPlus 5. Operators must notify districts of a breach of covered information within the most expedient time possible and without reasonable delay, but no later than 30 calendar days after the determination that a breach has occurred. 105 ILCS 85/15(5), added by P.A. 101-516, eff. 7-1-21. **Issue 104, June 2020**

PRESSPlus 6. This statement is required by 105 ILCS 85/27(b), added by P.A. 101-516, eff. 7-1-21. SOPPA provides that any agreement entered into in violation of SOPPA "is void and unenforceable as against public policy." *Id.* SOPPA does not provide for a private right of action against school districts; the Ill. Attorney General has enforcement authority under SOPPA through the Consumer Fraud Deceptive Trade Practices Act. 105 ILCS 85/35. **Issue 104, June 2020**

PRESSPlus 7. SOPPA requires specific provisions be included in a contract with any operator that seeks to receive covered information from a school district. 105 ILCS 85/15(4), added by P.A. 101-516, eff. 7-1-21. See 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*, available at PRESS Online by logging in at www.iasb.com, for details. **Issue 104, June 2020**

PRESSPlus 8. 105 ILCS 85/27(e), added by P.A. 101-516, eff. 7-1-21. SOPPA does not provide specifics regarding security procedures or practices, nor is there a formal, nationalized standard specific to K-12. However, SOPPA requires ISBE to make available on its website guidance for schools pertaining to reasonable security procedures and practices. 105 ILCS 85/28, added by P.A. 101-516, eff. 7-1-21. ISBE, the U.S. Dept. of Education (DOE) and other experts in the field agree that training of all staff with access to a school's network is important to protecting schools against cyber threats, although such training is not currently mandated in Illinois. ISBE's grant-funded program, the Learning Technology Center of Illinois, offers cybersecurity training to administrators and educators throughout the State. See www.ltc.org. The U.S. Dept. of Education has also issued multiple guidance documents on security best practices for schools, available at www.studentprivacy.ed.gov/topic/security-best-practices. **Issue 104, June 2020**

PRESSPlus 9. In the event of a breach of covered information of students, SOPPA requires school districts to provide two types of notices: (1) individual notices to the parents of students whose covered information was involved in the breach and (2) a more general notice about the breach on the district's website (or at the district administrative office, if it does not maintain a website) if the breach involved 10% or more of the district's student enrollment. 105 ILCS 85/27(a)(5) & (d), added by P.A. 101-516, eff. 7-1-21. See 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*, available at PRESS Online by logging in at www.iasb.com, for details about the required notices. **Issue 104, June 2020**

Document Status: Draft Update - Rewritten

Board Attorney

2:160-E Exhibit - Checklist for Selecting a Board Attorney

The Board of Education selects and retains the Board Attorney(s). The Board may use this checklist for guidance when it selects and retains attorney(s) and/or law firms for legal services. This checklist is designed for the Board to use a request for proposal (RFP) process to seek outside attorneys/law firms. The Board may also select an attorney without using an RFP process and adapt this checklist. The Board may also adapt this checklist and use it for an application process, if the Board seeks an in-house attorney. For more information, call the IASB Office of General Counsel; see its current phone numbers at www.iasb.com/about-us/staff/#office-general-counsel. ^{PRESSPlus1}

☐ Determine what type of legal services the District needs.

1. Review Board policy 2:160, *Board Attorney*. **Note:** Critically analyze whether the District's legal needs are best served by in-house attorney(s) or outside attorney(s)/law firms. Many districts use a combination of these services. Many districts also use multiple attorney(s)/law firms for their specialties, e.g., different law firms for bond counsel, special education, or labor law. Some boards also approve a panel of attorneys and allow the administration to choose which attorney to use.
2. Consider the following factors to analyze the type(s) of legal services needed for the District including, but are not limited to:
 - District's size;
 - Any past and current experiences with legal matters;
 - Complexity of the District's legal needs;
 - Availability of expertise; and
 - Cost of outside fees compared to internal staff expenses for an in-house arrangement.

☐ Develop a list of qualifications necessary for providing quality legal services to the District.

1. Review policy 4:60, *Purchases and Contracts*. **Note:** While State law exempts hiring an attorney from bidding requirements (105 ILCS 10-20.21(a)), the Board may want to review its procurement processes and align procurement for legal services to its non-bidding-related standards for purchases, e.g., avoiding favoritism, staying within the District's budget, etc.
2. Develop the list of qualifications. The major qualifications include, but are not limited to:
 - Licensed to practice law in Illinois and in good standing with the Ill. Attorney Registration and Disciplinary Commission (ARDC) (see checklist item *Conduct a reference check and other background investigations*, below)
 - Member of the District's assigned United States district court and the Seventh Circuit Court of Appeals
 - Substantive knowledge and experience in the legal areas matching District's needs, e.g., bidding, civil rights, collective bargaining, education reform, employment law, Freedom of Information Act, Open Meetings Act, other records laws, special education, student rights, etc. **Note:** This list of knowledge and experience must be created by the District's identified needs and may change from time to time.
 - Experience in all aspects of contract, employment, and school law
 - Experience that meets the District's needs, including litigation experience in State and federal courts
 - Membership in professional associations, such as, the Ill. Council of School Attorneys (ICSA) and education law sections of bar associations, etc.
 - Demonstrated knowledge of and ability to apply professional responsibility rules
 - Accessibility for the District's identified needs, e.g., evening Board meetings, phone calls, etc.
 - Ability to declare that representation of the District will be to the exclusion of all other clients having potential conflicts with the District's interests
 - When additional qualifications apply, list those qualifications for providing legal services. This may include specialties such as bond counsel, etc.

☐ Develop the RFP.

1. Insert the list of qualifications that the Board developed.
2. Include the following information:

- The deadline for responses to be submitted
- The location (address or email) where responses should be sent
- A statement that the Board is soliciting proposals from qualified lawyers and law firms to provide legal services to the School District
- Significant information about the District (see policy 1:30, *School District Philosophy*, for the District's mission statement that is specific to the community's goals)
- The scope of work, e.g., "The Board Attorney will provide legal advice concerning *[typical duties, specific duties, excluded duties]*."
- Qualifications
- Details about interviews and presentations

3. Specify what responders must include in their responses, such as the following:

- Cover letter, complete name, address, and legal structure (if the responder is a law firm)
- The individuals who prepared the response, including their titles
- If different from above, the identity of and directory information for the individuals who have authority to answer questions regarding the submitted proposal
- A proposed fee schedule, e.g., "Respondents may combine set fees and hourly fees. If hourly fees are proposed, please provide the minimum time increment for billing purposes. If a retainer agreement is proposed, please specifically describe options."
- A summary of the responder's relevant experience representing public schools
- A writing sample
- An assurance that the responder meets the RFP's qualifications
- References including current or past clients

☐ Announce the RFP.

1. Title the announcement. **Note:** How and where the RFP is announced are at the Board's sole discretion. The Board may want to announce the RFP during an open meeting, post it on the District's website, mail or email it to local law firms, and/or place it in the local newspaper(s) or other legal publications. A directory of those lawyers belonging to the ICSA is on the IASB website, www.iasb.com. A printed copy is available upon request. Inclusion in the directory does not represent an IASB endorsement. Some attorneys who practice school law do not belong to ICSA. Other online sources, such as the Ill. State Bar Association, also maintain directories of information about attorneys. The Board may want to title the announcement "The *[Insert District's name]* Board of Education Requests Proposals to Provide Legal Services."
2. Announce that the Board seeks an attorney or law firm to serve as its Board Attorney.
3. Inform the reader that the attorney or law firm selected will serve either *at will* or from the date of appointment to *[date]*. The length of the appointment is at the Board's discretion.
4. State the School District's philosophy or mission statement.
5. Insert the RFP location and contact information with the beginning date and time.
6. Tell prospective responders that completed RFPs must be returned by *[certain time and date]* to *[name and title of person receiving applications]*.

☐ Receive and manage responses to the RFP.

1. Review policy 2:110, *Qualifications, Term, and Duties of Board Officers*. The Board President is a logical officer to accept the applications, but this task may be delegated to the Secretary or Superintendent's secretary if the Board determines that it is more convenient. Who accepts applications is at the Board's sole discretion and should be decided by the Board prior to posting the RFP announcement.
2. The Board will discuss, at an open meeting, its process to review the applications and who will contact RFP responders for an interview.
3. The designated person will contact RFP responders for interviews.

☐ Develop interview questions if the Board interviews attorneys or law firms.

1. Interview questions are at the Board's discretion.
2. A prospective attorney or law firm to fill the Board Attorney position may raise other specific issues that the Board will want to cover during an interview.
3. The following non-exhaustive list of interview questions may help the Board tailor its questions toward finding an attorney or law firm with an approach to the role of the Board Attorney that the Board desires:

- What do you see as your role as Board Attorney?
- How many other school districts do you currently represent?
- What kind of legal services do you provide to your school clients? Please explain how your other experience is relevant to this position.
- How many years of experience does your firm (or, the attorney) have? How long have you been practicing law? How long have you been representing school districts?
- What methods will you use to ensure all members of the Board, which is your client, remain informed? See the discussion about the *Ill. Professional Rules of Conduct* in f/n 2 of policy 2:160, *Board Attorney*.
- How would you manage a situation in which the Board feels strongly about its position but you believe that position is not legally supportable? The *Ill. Rules of Professional Conduct*, at www.illinoiscourts.gov/supremecourt/rules/art_viii/default_new.asp, require attorneys to represent the Board in its capacity as the governing body for the District. The responders should be discussing these rules, specifically Rule 1.7 (Conflict of Interest: Current Clients) and Rule 1.13 (Organization as Client), among others, in their answers to this question. See also, **PRESS** policy 2:160, *Board Attorney*.
- How would you manage a situation in which the Board's interest may be or become adverse to one or more of its members? See the discussion about the *Ill. Professional Rules of Conduct* in f/n 2 of policy 2:160, *Board Attorney*.
- How would you manage a situation in which the Board and Superintendent are in conflict? How about a divided Board? See the discussion about the *Ill. Professional Rules of Conduct* in f/n 2 of policy 2:160, *Board Attorney*.
- If the Board did something that you had advised against, could you still defend the Board's action? See the discussion about the *Ill. Professional Rules of Conduct* in f/n 2 of policy 2:160, *Board Attorney*.
- Will you try to shape Board decisions or do you have a *whatever the Board decides* philosophy? See the discussion about the *Ill. Professional Rules of Conduct* in f/n 2 of policy 2:160, *Board Attorney*.
- Do you give clients specific recommendations or do you advise them of the available options and let the client decide? See the discussion about the *Ill. Professional Rules of Conduct* in f/n 2 of policy 2:160, *Board Attorney*.
- Do you provide your Board of Education clients with any updating services gratis?
- How do you keep your Board clients apprised of litigation and other legal matters you are handling for them?
- Will you be handling this business personally, i.e., will you delegate to your associates or partners?
- Can anyone else in your firm handle our inquiries when you are unavailable?
- How do you keep current on school law?
- When do you tell your school clients to contact you regarding a matter with possible legal repercussions?
- Have you represented a school district in a matter involving the rights of disabled students? ...involving disabled employees? ... involving a student expulsion? ... involving a teacher dismissal? ... involving an employee's contract or dismissal? ... involving a building contract or bidding matter? ... Can you tell us about that case?
- How do you bill? How are you to be paid? Please explain your rates and/or fees. The subject of billing should cover whether the attorney or law firm prepares a budget for representation and its method for billing in detail, including the date and time, what work was performed, and who worked on the project, along with expenses.
- Did you bring a written agreement for legal services, engagement letter, or a retainer agreement? If yes, please review it for us now. If not, please explain the options for a written agreement for legal services, engagement letter, or a retainer agreement.

▮ **Develop an interview protocol.** Interviews may occur in closed session pursuant to 5 ILCS 120/2(c)(1).

1. The Board President will lead the Board as it interviews responders to its RFP. See 105 ILCS 5/10-13 stating that the Board President presides at all meetings and policy 2:110, *Qualifications, Term, and Duties of Board Officers*.
2. The Board may also want to consider allowing an equal amount of time for each interview.
3. Discuss the following items with each responder during the interview:
 - Introduce Board members to the responder
 - Describe the Board's interview process, selection process, and ask the responder if he or she has questions about the Board's process for selecting its attorney
 - Describe the District's philosophy or mission statement
 - Describe the Board Attorney position by reviewing the RFP
 - Begin asking the interview questions (see *Develop interview questions*, above)
 - Ask the responder whether he or she has any questions for the Board
 - Thank the responder and inform him or her when the Board expects to make its decision and how the responder will be contacted regarding the Board's decision

▮ **Conduct a reference check and other background investigation(s).**

1. The Board President may perform this check or direct the Superintendent to:

- Check the ARDC's master roll of attorneys as "Authorized to Practice Law" (To do this, enter the attorney's name into the ARDC's registration and public disciplinary records database at: www.iardc.org/lawyersearch.asp.)
- Click on the attorney's name to review whether any disciplinary actions are pending or resolved; current and prior actions will appear at the bottom of the screen
- If disciplinary actions are listed, ask the attorney or law firm for more information

2. There are other online attorney review services available. These services may be overly subjective and/or the attorney may have control over the content in these services. Always check with the ARDC.

3. Call references provided by the responder.

Enter into a written agreement or engagement letter with the selected attorney or law firm.

1. All *agreements for legal services* should be in writing. At minimum, the agreement should provide the fee arrangement and the scope of services. *Agreements for legal services* and individual billing statements from the Board Attorney are subject to disclosure pursuant to a Freedom of Information Act request (PAO 14-02).

2. Discuss the fee arrangements with the responder and decide:

- Whether to enter into a fee arrangement and/or a retainer agreement (**Note:** Attorneys typically bill by a pre-determined percentage of the hour, e.g., in one-tenth of an hour increments. Many districts enter into a retainer agreement for legal services or an engagement letter that requires them to pay the attorney a pre-determined fee every month. In return, the attorney provides a pre-determined amount of legal services whenever the district needs him or her. Districts find this useful because (1) they can budget for legal expenses, (2) legal advice is available up to the pre-determined amount for lower fees, and (3) this arrangement often provides for an enhanced, long-term relationship with the attorney.)
- The appropriate scope of services

3. Review the written contract or memorialized relationship (*agreement for legal services* or *engagement letter*) for these provisions:

- Fee arrangement
- Scope of services
- Which attorneys will be providing legal services
- A statement that the Board controls all legal decisions
- A statement that the attorney and his or her law firm have no conflicts of interest or, if a conflict exists, that the Board understands the conflict and waives it
- Board's right to terminate the services of the attorney and law firm at any time for any reason

4. Approve the *agreement for legal services* or *engagement letter* during an open Board meeting.

Announce the appointment to District staff and community.

1. The contents of the announcement and length of time it is displayed are at the Board's sole discretion.

2. The Board may want to consider announcing during an open meeting. See policy 8:10, *Connection with the Community*.

3. The Board may want to include the following information in its announcement:

- The Board appointed [attorney's name or law firm name] as the Board Attorney
- The appointment will begin on [date] for [length of time]
- The Board previously established qualifications for the Board Attorney in a careful and thoughtful manner, e.g., "[Attorney or lawfirm's name] meets these qualifications and has demonstrated the willingness to accept its duties and responsibilities. [Attorney or lawfirm's name] brings a clear understanding of the demands and expectations of the Board Attorney position along with a constructive attitude toward the challenge."

PRESSPlus Comments

PRESSPlus 1. Rewritten to incorporate numerous style updates and corrections in response to its five-year review and **PRESS** Advisory Board feedback. **Issue 103, March 2020**

Document Status: Draft Update - Rewritten

Section 4 - OPERATIONAL SERVICES

4:180 Pandemic Preparedness; Management; and Recovery

Title has been updated. Original Title: Pandemic Preparedness

The School Board recognizes that the District will play an essential role along with the local health department and emergency management agencies in protecting the public's health and safety during a pandemic. [PRESSPlus1](#)

A pandemic is a global outbreak of disease. Pandemics happen when a new virus emerges to infect individuals and, because there is little to no pre-existing immunity against the new virus, it spreads sustainably. [PRESSPlus2](#)

To prepare the School District community for a pandemic, the Superintendent or designee shall: (1) learn and understand how the roles that the federal, State, and local government function; (2) form a pandemic planning team consisting of appropriate District personnel and community members to identify priorities and oversee the development and implementation of a comprehensive pandemic school action plan; and (3) build awareness of the final plan among staff, students, and community.

Emergency School Closing [PRESSPlus3](#)

In the case of a pandemic, the Governor may declare a disaster due to a public health emergency that may affect any decision for an emergency school closing. Decisions for an emergency school closing will be made by the Superintendent in consultation with and, if necessary, at the direction of the Governor, Ill. Dept. of Public Health, District's local health department, emergency management agencies, and/or Regional Office of Education. [Q1](#)

During an emergency school closing, the Board President and the Superintendent [Q2](#) may, to the extent the emergency situation allows, examine existing Board policies pursuant to Policy 2:240, *Board Policy Development*, and recommend to the Board for consideration any needed amendments or suspensions to address mandates that the District may not be able to accomplish or implement due to a pandemic. [PRESSPlus4](#)

Board Meeting Procedure: No Physical Presence of Quorum and Participation by Audio or Video [PRESSPlus5](#)

A disaster declaration related to a public health emergency [PRESSPlus6](#) may affect the Board's ability to meet in person and generate a quorum of members who are physically present at the location of a meeting. Policy 2:220, *School Board Meeting Procedure*, governs Board meetings by video or audio conference without the physical presence of a quorum.

Payment of Employee Salaries During Emergency School Closures [PRESSPlus7](#)

The Superintendent shall consult with the Board to determine the extent to which continued payment of salaries and benefits will be made to the District's employees, pursuant to Board policies 3:40, *Superintendent*, 3:50, *Administrative Personnel Other Than the Superintendent*, 5:35, *Compliance with the Fair Labor Standards Act*, 5:200, *Terms and Conditions of Employment and Dismissal*, and 5:270, *Employment At-Will, Compensation, and Assignment*, and consistent with: (1) applicable laws, regulations, federal or State or local emergency declarations, executive orders, and agency directives; (2) collective bargaining agreements and any bargaining obligations; and (3) the terms of any grant under which an employee is being paid.

Suspension of In-Person Instruction; Remote and/or Blended Remote Learning Day Plan(s) [PRESSPlus8](#)

When the Governor declares a disaster due to a public health emergency pursuant to 20 ILCS 3305/7, and the State Superintendent of Education declares a requirement for the District to use *Remote Learning Days* or *Blended Remote Learning Days*, the Superintendent shall approve and present to the Board for adoption [PRESSPlus9](#) a Remote and/or Blended Remote Learning Day Plan (Plan) that: [Q3](#)

1. Recommends to the Board for consideration any suspensions or amendments to curriculum-related policies to reduce any Board-required graduation or other instructional requirements in excess of minimum curricular requirements specified in School Code that the District may not be able to provide due to the pandemic; [PRESSPlus10](#)
2. Implements the requirements of 105 ILCS 5/10-30; and
3. Ensures a plan for periodic review of and/or amendments to the Plan when needed and/or required by statute, regulation, or State guidance.

LEGAL REF.:

105 ILCS 5/10-16.7, 5/10-20.5, 5/10-20.56, and 5/10-30.

5 ILCS 120/2.01 and 120/7(e), Open Meetings Act.

20 ILCS 2305/2(b), Ill. Dept. of Public Health Act (Part 1).

20 ILCS 3305/, Ill. Emergency Management Agency Act.

115 ILCS 5/, Ill. Educational Labor Relations Act.

CROSS REF.: 1:20 (District Organization, Operations, and Cooperative Agreements), 2:20 (Powers and Duties of the School Board; Indemnification), 2:220 (School Board Meeting Procedure), 2:240 (Board Policy Development), 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 3:70 (Succession of Authority), 4:170 (Safety), 5:35 (Compliance with the Fair Labor Standards Act), 5:200 (Terms and Conditions of Employment and Dismissal), 5:270 (Employment At-Will, Compensation, and Assignment), 6:20 (School Year Calendar and Day), 6:60 (Curriculum Content), 6:300 (Graduation Requirements), 7:90 (Release During School Hours), 8:100 (Relations with Other Organizations and Agencies)

Questions and Answers:

***Required Question 1. Is your district served by an Intermediate Service Center rather than an ROE (suburban Cook County)?

☐ No. (default)

☒ Yes. (IASB will replace "Regional Office of Education" with "Intermediate Service Center")

***Required Question 2. This sample policy uses the board president and superintendent as the default text because during a pandemic, it may be difficult for a board policy committee to meet pursuant emergency executive orders that are issued, etc. See policies 2:150, *Committees*, and 2:240, *Board Policy Development*. Does the board prefer its policy committee to engage in this work?

☒ No. (default)

☐ Yes. (IASB will replace "Board President and the Superintendent" with "Board Policy Committee")

***Required Question 3. Remote Learning Days (RLDs) and Blended Remote Learning Days (BRLDs) are different from e-learning days/e-learning programs. RLD/BRLDs are for use when the governor declares a disaster under 20 ILCS 3305/ and the state superintendent has declared a requirement for the district to use them to provide remote instruction to pre-kindergarten through grade 12 that count as pupil attendance days under 105 ILCS 5/10-19.05(j-5), amended by P.A. 101-643. 105 ILCS 5/10-30(1), added by P.A. 101-643. BRLDs allow districts to utilize "hybrid models of in-person and remote instruction. E-learning days are part of an e-learning program that require a board to, among other things, hold a public hearing and obtain approval by the Regional Office of Education (or Intermediate Service Center) to allow the 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(b), amended by P.As. 101-12 and 101-643. School districts with e-learning programs may adapt them for use during RLDs and BRLDs (105 ILCS 5/10-20.56(a), amended by P.As. 101-12 and 101-643, and 5/10-30(2), added by P.A. 101-643.

Has the board adopted an e-learning program pursuant to 105 ILCS 5/10-20.56, added by P.A. 101-12?

☒ No. (default)

☐ Yes. (IASB will add the following text to number two after 105 ILCS 5/10-30: "by adapting into a Plan the District's e-learning program implemented pursuant to 105 ILCS 5/10-20.56")

PRESSPlus Comments

PRESSPlus 1. This policy is renamed from *Pandemic Preparedness* to *Pandemic Preparedness: Management and Recovery*. It is updated in response to the General Assembly, the Ill. State Board of Education (ISBE), Ill. Attorney General, and the U.S. Dept. of Education taking a number of actions and/or issuing guidance documents to address the ongoing COVID-19 pandemic as it affects public school operations and student learning. Its purpose is to establish board direction about pandemic preparedness, management, and recovery issues and inform the community about the board's role during a pandemic.

Certain subheads of this policy are required; see further PRESS Plus comments for more information.

A redlined version showing the changes and more information in the footnotes can be found at PRESS Online, accessed by logging in at www.iasb.com. **Issue 104, June 2020**

PRESSPlus 2. This paragraph embodies the CDC's pandemic definition. See www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html. The **Illinois Pandemic Influenza Preparedness and Response Plan**, Version 5.0, May 2014, also defines pandemic at page 9; however, that definition is specific to influenza. The new COVID-19 coronavirus is not an influenza virus yet was characterized as a pandemic by the World Health Organization. At the time of publication during the 2020 COVID-19 pandemic, it was not clear whether this Illinois resource's definition will be amended. **Issue 104, June 2020**

PRESSPlus 3. In times of emergency, the functions of different levels of State and federal government often become cloudy, and determining what governmental entity has powers to take a particular action can be confusing. The concept of federalism, or the coexistence of federal and state governments with their own local powers, was utilized during the response to the 2020 COVID-19 pandemic. Federalism is premised on the Constitutional limits of federal power. See U.S. Const. Art. I, Sec. 8 (limiting powers of Congress providing only those powers enumerated). Generally, during the 2020 COVID-19 pandemic, Illinois and other states were left with these remaining powers of government to respond to the crisis. In general, President Trump's administration set broad national policy, particularly with respect to international travel and the approval of treatments, and suggested guidance that States could follow regarding mitigation measures. The states' governors and local leaders made other state-specific or locality-specific decisions based upon the local conditions in each community. Depending upon the federal administration in power at the time of a pandemic, the federal government may seek to play a greater or lesser role in the management of a pandemic.

During the 2020 COVID-19 pandemic, the Governor and ISBE issued many directives and/or guidance, including reliance upon the advice and recommendations of local public health departments. See www.isbe.net/Documents/ISBE-Guidance-to-School-Coronavirus.pdf. And see other 2020 COVID-19 guidance documents as follows:

- Ill. Gov. Pritzker, ISBE, Ill. Association of School Admin., Ill. Principals' Assoc., Ill. Ed. Assoc., and Ill. Fed. of Teachers Joint Statement: www.isbe.net/Documents/Joint-Statement-Updated%203-27-20.pdf.
- IDPH-ISBE joint schools guidance: www.dph.illinois.gov/topics-services/diseases-and-conditions/diseases-a-z/list/coronavirus/schools-guidance
- IDPH-ISBE joint workplace health and safety guidance: www.dph.illinois.gov/covid19/community-guidance/workplace-health-and-safety-guidance
- Restore Illinois Plan: www2.illinois.gov/dceo/Pages/RestoreIllP3.aspx.

During the 2020 COVID-19 pandemic, several protests occurred and many lawsuits were filed challenging Ill. Gov. Pritzker's extensions of disaster declaration emergency power under IEMA, 20 ILCS 3305/7. See the 2020 COVID-19 Executive Orders (EO) at: coronavirus.illinois.gov/s/resources-for-executive-orders. Controversies existed across party and regional lines with all branches of government looking to balance the need to protect human life against the desire to preserve personal liberty. Gov. Pritzker's EOs faced unsettled challenges in both the courts of law and public opinion as a five-phased plan to re-open Illinois was also being introduced a/k/a *Restore Illinois Plan* (coronavirus.illinois.gov/s/restore-illinois-introduction). **Issue 104, June 2020**

PRESSPlus 4. Examples include, but are not limited to, policies 6:20, *School Year Calendar and Day*, 6:300, *Graduation Requirements*, 6:310, *High School Credit for Non-District Experiences*; *Course Substitutions*; *Re-Entering Students*. For Executive Orders addressing these issues, see the footnotes available at PRESS Online by logging in at www.iasb.com. **Issue 104, June 2020**

PRESSPlus 5. 5 ILCS 120/2.01 and 120/7(e), amended by P.A. 101-640. See also 105 ILCS 5/10-6 and 5/10-12. See policy 2:220 and Board exhibit 2:220-E9 for more information. **Issue 104, June 2020**

PRESSPlus 6. While 5 ILCS 120/7(e)(1), amended by P.A. 101-640, uses the phrase "related to public health concerns," the text "due to public health emergency" aligns with Ill. Emergency Act (IEMA), 20 ILCS 3305/4 and 7, the governing statute of disaster declarations. For ease of understanding and alignment with IEMA, this policy uses "public health emergency." **Issue 104, June 2020**

PRESSPlus 7. Required if a district wishes to continue to charge employee salaries and benefits to a grant during an extended school closure, depending upon the specific terms of government orders and/or guidance issued during a pandemic. 2 C.F.R. Part 200 (see www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf, extended until 9-30-20 by www.whitehouse.gov/wp-content/uploads/2020/06/M-20-26.pdf) and 30 ILCS 708/.

During the 2020 COVID-19 pandemic, Gov. Pritzker and ISBE issued directives and/or guidance regarding payment of school

district employees that may impact a board's decision regarding continued payment of employees during an extended closure. ISBE and the Governor suspended in-person learning and issued a Joint Statement (JS) with other school administrator and union groups, which purported to mandate that all school district employees on the district's payroll be paid as if districts were functioning normally and they were performing their normal work. See www.isbe.net/Documents/Joint-Statement-Updated%203-27-20.pdf. The JS cited no specific authority for the payment mandate. Additionally, changes to wages, hours, terms and conditions of employment, even when made during an extraordinary circumstance such as a pandemic, remain subject to collective bargaining obligations.

See sample procedure 4:180-AP3, *Grant Flexibility; Payment of Employee Salaries During a Pandemic*, and its footnotes, available at PRESS Online by logging in at www.iasb.com. **Issue 104, June 2020**

PRESSPlus 8. 105 ILCS 5/10-30(3), added by P.A. 101-643, requires the "[board] to adopt and the superintendent to approve" these plans upon the following statutory triggers: (1) the governor declaring a disaster pursuant to 20 ILCS 3305/, and (2) the state superintendent of education declaring a requirement for a school district, multiple school districts, a region, or the entire State.

See sample administrative procedure 6:20-AP, *Remote and/or Blended Remote Learning Day Plan(s)*, available at PRESS Online by logging in at www.iasb.com, for the specifics of implementing Remote Learning Days (RLDs) and/or Blended Remote Learning Days (BLRDs).

Implementing a plan under this subhead 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 subhead of the policy concerns an area in which the law is unsettled. See 105 ILCS 5/10-30(7), added by P.A. 101-643 (stating that it does not increase or diminish any collective bargaining rights under existing law, and that aspects of the plan that impact the wages or other terms or conditions of employment will need to be bargained with the exclusive bargaining representative(s)).

To avoid confusion, note that the triggers under the Open Meetings Act (OMA), 5 ILCS 120/7, amended by P.A. 101-640, for when a school board may conduct its meetings by audio or video conference without the physical presence of a quorum are a bit more broad: (1) the "governor **or the director of IDPH** has issued a disaster declaration of a disaster as defined in 20 ILCS 3305/, and (2) all or part of the jurisdiction of the [school board] is covered by the disaster area. This means that it is possible for the board to meet remotely under OMA if the director of IDPH declares a disaster, but the School Code requires the governor to be the one to declare the disaster under 20 ILCS 3305/ in order for the state superintendent of education to declare that a district implement RLD/BLRDs. **Issue 104, June 2020**

PRESSPlus 9. 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." 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 policy assigns the duty to *adopt* the remote and blended remote learning day plan (plan) by "the district" to the board. In alignment with this policy, administrative procedure 6:20-AP, *Remote and/or Blended Remote Learning Day Plan(s)*, requires the superintendent to *approve* the plan and present it to the board for *adoption* prior to district-wide implementation and posting on the district's website. **Issue 104, June 2020**

PRESSPlus 10. 105 ILCS 5/10-30(8), added by P.A. 101-643 does not excuse districts from completing all statutory and regulatory curricular mandates and offerings. **Issue 104, June 2020**