

School Board

Public Participation at School Board Meetings and Petitions to the Board¹

For an overall minimum of 30 minutes² During each regular and special open meeting of the Board, any person may comment to or ask questions of the School Board (*public participation*), subject to the reasonable constraints established and recorded in this policy's guidelines below.³ The Board

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

¹ The Open Meetings Act (OMA) requires public bodies to have rules (a policy) on public participation. Public comment is synonymous with public participation. They are used interchangeably in the footnotes below. 5 ILCS 120/. Customize this policy to ensure it is responsive to the community's public participation needs.

OMA and the School Code grant any person the right to address a school board during any open meeting. See 5 ILCS 120/2.06, 105 ILCS 5/10-6 (board of directors), 5/10-16 (board of education), and PAO 19-2. See f/n's 2, 4, and 5, and 6 below for more detailed discussions.

Policy 2:110, Qualifications, Term, and Duties of Board Officers, governs the board president's duties, one of which is to preside at all meetings, including presiding over public participation and enforcing this policy. Enforcing this policy is key to the board conducting a successful meeting. The board president should speak with the board attorney to: (1) craft opening statements for the public participation portion of the meeting related to enforcement of this policy and consequences for violating it or any other related board policies, and (2) discuss whether the presence of security and/or law enforcement is advisable, especially when public participation is expected to be long or contentious. For a resource on best practices for managing challenging public comment periods, including a sample opening statement, see: www.iasb.com/policy-services-and-school-law/guidance-and-resources/managing-challenging-public-comment-periods/ and other learning opportunities through IASB's Online Learning Center, at: www.iasb.com/conference-training-and-events/training/online-learning/online-courses/.

While it does not apply directly to school boards, the Empowering Public Participation Act, 5 ILCS 850/, added by P.A. 102-348, prohibits law enforcement agencies or officers employed by them from intentionally conducting background checks of individuals based solely on the fact that they are speaking at an open meeting of a public body. Consult the board attorney for a discussion related to the appropriateness of board members and school officials using search engines and/or other social media platforms to search for information about individuals speaking during public participation.

² OMA and the School Code grant any person the right to address a school board during any open meeting. See 5 ILCS 120/2.06, 105 ILCS 5/10-6 (board of directors), 5/10-16 (board of education), and PAO 19-2. See f/n's 4, 5, and 6 below for more detailed discussions.

The length of this sample policy's minimum overall public participation time is at the local board's discretion. Ensure the length of time here and in #3.b. match. Customize this policy to ensure it is responsive to the community's public participation needs.

³ This sentence combines 105 ILCS 5/10-16 and 5 ILCS 120/2.06(g). Prohibiting public comment and/or restricting public comment to written filings violates the mandates and overarching purpose of OMA. Roxana CUSD No. 1 v. EPA, 998 N.E.2d 961 (Ill.App.4th 2013).

While some courts have upheld public bodies limiting public comment to certain subjects, such as only subjects on the agenda or only related to the business of the public body, this sample policy does not provide default sample text for limiting public comment to certain subjects. This is because 105 ILCS 5/10-16 requires school boards to allow members of the public "to comment to or ask questions of the board." The cases in which courts upheld limiting public comment to certain subjects involved public bodies with no governing statutes that required the public body to allow the public "to comment to or ask questions of the board."

Consult with the board attorney for guidance before adopting a maximum time limit for public participation; public comment rules are frequently challenged. The Ill. Public Access Counselor (PAC) has issued only unpublished, non-binding opinions approving of 30- and 60-minute overall time limits for public comment under OMA. The PAC has issued a binding opinion finding that a public body violated OMA when, pursuant to an unrecorded rule, it limited public comment on a controversial topic to 15 minutes. Public Access Opinion (PAO) 19-2. The PAC noted that while the lack of an adopted policy on the time period for public comment did not "necessarily mean that public comment must be allowed to continue indefinitely," the public body presented "no evidence that limiting comments was necessary to maintain decorum or that extending the comment period would have unduly interfered with the orderly transaction of public business." Id. If the board wants to establish a maximum time limit for public participation, it may revise the first sentence of the paragraph as follows:

Commented [DJ1]: Text that formerly appeared in f/n 2 has been moved to f/n 1.

listens to comments or questions during public participation; responses to comments to or questions of the Board are most often managed through policy 3:30, *Chain of Command*.⁴ During public participation, there will be a 20-minute⁵ minimum total length of time for any one subject. When public participation takes less time than these minimums, it shall end.

To preserve sufficient time for the Board to conduct its business, any person appearing before the Board is expected to follow these guidelines:⁶

1. Address the Board only at the appropriate time as indicated on the agenda and when recognized by the Board President. [This includes following the directives of the Board President to maintain order and decorum for all.](#)

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⁴ For a maximum of 60 minutes during each regular and special open meeting of the Board, any person may comment to or ask questions of the School Board (*public participation*), subject to the reasonable constraints established and recorded in this policy's guidelines below. The time limit for public participation at a meeting may be extended upon the majority vote of the Board members at the regular or special meeting.

If a board wants to establish a time limit other than 60 minutes, substitute with the time limit desired. Note that any extension of a public comment period cannot be based on the viewpoint of a speaker(s).

⁴ The law does not require board members to respond during public participation, and best practices for meetings instruct board members to refrain from engaging in commentary with members of the public during public participation.

⁵ See 5 ILCS 120/2.06, 105 ILCS 5/10-16, and PAO 19-2. Like the length of time for overall public participation discussed in ¶n 2 above, the length of this sample policy's 20-minute minimum total length of time for any one subject is also at the local board's discretion. Customize this policy to ensure it is responsive to the community's public participation needs. Ensure the length of time here and in #3.b. match. Because the time limit for public participation in this sample policy is set at five minutes, a multiple of five minutes is chosen for ease of tracking. See also the discussion in ¶ns 5 and 6 below.

⁶ OMA does not but PAO 19-2 does provide specific rules. These guidelines may be amended. The guidelines for public comment and the time minimums and limits (if any) should be reviewed with the board attorney. Restrictions on public comment during board meetings must respect free speech rights guaranteed by the First Amendment. Do not use viewpoint-based restrictions on public comment time unless approved by the board attorney. Many decisions address the tension between free speech and rules for public comment during meetings. See, for example:

Mnyofu v. Rich Twp. High Sch. Bd. Dist., 2007 WL 1308523 (N.D.Ill. 2007)(school boards may impose guidelines for running meetings to maintain effectiveness).

PAO 19-2 (the ~~Ill. Public Access Counselor~~ (PAC) ordered a board to refrain from applying unestablished and unrecorded rules to restrict public comment at future meetings stating, "Though a public body has inherent authority to conduct its meetings in an efficient manner and need not allow public comment to continue indefinitely, there was no evidence that capping public comment to 15 minutes was necessary to maintain decorum or that extending the comment period would have unduly interfered with the orderly transaction of public business.").

PAO 21-9 (The PAC found a board violated OMA when it required public comments about retention of a coach to be made in closed, rather than open, session).

Lowery v. Jefferson Co. Bd of Educ., 586 F.3d 427 (6th Cir. 2009)(upheld a rule prohibiting speakers from being frivolous, repetitive, or harassing).

Steinburg v. Chesterfield County Planning Comm'ission, 527 F.3d 377 (4th Cir. 2008), *cert. denied* (upheld removal of a man from a public meeting for behaving in a hostile manner).

Norse v. City of Santa Cruz, 629 F.3d 966 (9th Cir. 2010)(remanded a decision upholding community member's removal from city council meeting after community member gave a Nazi salute in presiding officer's direction, which is considered as classic viewpoint discrimination for which city council members were not entitled to qualified immunity).

Fairchild v. Liberty Indep. Sch. Bd. Dist., 597 F.3d 747 (5th Cir. 2010)(upheld a policy banning discussion of personnel matters during public comment; the rationale turned, at least in part, on the Texas open meetings law).

Bach v. Sch. Bd. of the City of Virginia Beach, 139 F.Supp.2d 738 (E.D.Va. 2001)(struck down a rule that prohibited personal attacks during public comments at meetings).

Ison v. Madison Local Sch. Dist. Bd. of Educ., 3 F.4th 887 (6th Cir. 2021)(found a policy prohibiting statements that were personally directed, abusive, or antagonistic constituted viewpoint discrimination in violation of the First Amendment).

~~1-2.~~ Use a sign-in sheet, if requested. ⁷

~~2-3.~~ Identify oneself and be brief. Ordinarily, the time for any one person to address the Board during public participation shall be limited to five minutes.⁸ In unusual circumstances, and when an individual has made a request to speak for a longer period of time, the Board President may allow a person may be allowed to speak for more than five minutes. If multiple individuals wish to address the Board on the same subject, the group is encouraged to appoint a spokesperson.

~~3-4.~~ Observe, when necessary and appropriate, the Board President's authority to:

- a. ~~Shorten ing of~~ the time for each person to address the Board during public participation to conserve time and give the maximum number of people an opportunity to speak; and/or
- b. ~~Expansion of the overall minimum of 30 minutes for public participation and/or the 20-minute minimum total length of time for any one subject; and/or~~
- ~~e-b.~~ Determination of procedural matters regarding public participation not otherwise covered in Board policy.

~~4-5.~~ Conduct oneself with respect and civility toward others and otherwise abide by Board policy 8:30, Visitors to and Conduct on School Property. ⁹

Petitions or written correspondence to the Board shall be presented to the Board in the next regular Board packet. ¹⁰

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⁷ Optional. A public commenter cannot be excluded for refusing to provide his or her home address. PAO 14-9. Generally, a board should consult with its attorney regarding the practice of excluding public commenters for reasons relating to the sign-in sheet.

⁸ Time limits for any one person to address the Board during public participation may be adjusted up or down. This sample uses five minutes because it is a frequently-used time limit. See I.A. Rana Enterprises, Inc. v. City of Aurora, 630 F.Supp.2d 912 (N.D.-Ill. 2009) (finding a three-minute time limit reasonable citing Wright v. Anthony, 733 F.2d 575, 577 (8th Cir. 1984) which upheld a five-minute time limit for individual public comments and holding time limits serve “a significant governmental interest in conserving time and in ensuring that others ha[ve] an opportunity to speak”). Note that the Ill. Municipal Code, which applied to the City of Aurora in I.A. Rana Enterprises, Inc., did not have the same requirements as the School Code to allow members of the public to “comment to or ask questions of the board.” I.A. Rana Enterprises, Inc. also predated the 2011 amendments to OMA allowing “[a]ny person an opportunity to address public officials under the rules established and recorded by the public body.”

Based upon I.A. Rana Enterprises, Inc., many attorneys agree that speaker time limits should be a minimum of three minutes per person, but some public bodies have successfully implemented two minutes per person. Consult the board attorney before setting time limits below three minutes.

⁹ See Nuding v. Cerro Gordo Community Unit School Dist., 313 Ill.-App.3d 344 (4th Dist. 2000)(board was authorized to ban parent from attending all school events and extracurricular activities by 105 ILCS 5/24-24; the ban was based on the parent’s exposing a toy gun and a pocketknife at a board meeting).

Initiating lawsuits against citizens over their uncivil public comments is tricky. Always consult the board attorney, and in some instances, a board member may need to consult his or her own private attorney. The Ill. Citizen Participation Act (CPA) (735 ILCS 110/15) provides citizens a mechanism to stop lawsuits brought against them for their public comments. The law, referred to as *anti-SLAPP legislation*, prohibits public officials from suing citizens for “any act or acts in furtherance of [their] rights of petition, speech, association, or to otherwise participate in government.” SLAPP means *Strategic Lawsuits Against Public Participation*.

The CPA does not bar public officials from seeking relief when they can allege that (a) the citizen’s comments were “not genuinely aimed at procuring favorable government action, result, or outcome,” and/or (b) the citizen engaged in defamation or another intentional tort causing the public official damage. See Sandholm v. Kuecker, 962 N.E.2d 418 (Ill. 2012).

LEGAL REF.: [105 ILCS 5/10-6 and 5/10-16.](#)
5 ILCS 120/2.06, Open Meetings Act.
[105 ILCS 5/10-6 and 5/10-16.](#)

CROSS REF.: 2:220 (School Board Meeting Procedure), 8:10 (Connection with the Community), 8:30 (Visitors to and Conduct on School Property)

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10 A board of school directors must reply to a written request for consideration of a matter within 60 days from the board's receipt of the request. 105 ILCS 5/10-6. Boards of education may treat petitions or correspondence according to a uniform, locally developed process. [e.g., a board may wish to limit petitions and written correspondence presented to the board to those that are received at the district office via mail or hand delivery.](#)

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General School Administration

Succession of Authority

If the Superintendent, Building Principal, or other administrator is temporarily unavailable, the succession of authority and responsibility of the respective office shall follow a succession plan, developed by the Superintendent and submitted to the School Board.¹

CROSS REF.: 1:20 (District Organization, Operations, and Cooperative Agreements), 3:30 (Chain of Command)

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¹ This policy is at the local board's discretion. Submitting the succession plan to the board provides an opportunity for the superintendent to manage the district and provide leadership for the staff while allowing the board to monitor this policy and stay informed. See the IASB's *Foundational Principles of Effective Governance* at: www.iasb.com/pdf/found_prin.pdf. A board may want to approve the succession plan used in the event of an administrator's temporary absence and, if so, should delete ~~submitted to~~ and replace it with "approved by".

Operational Services

Fiscal and Business Management 1

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

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

Budget Planning

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

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¹ State or federal law controls this policy's content. Article 17 of the School Code controls budgeting, tax levys, and tax warrants.

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

³ 105 ILCS 5/10-17.

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

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

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

⁷ Required by 105 ILCS 5/17-1. [See www.isbe.net/Pages/School-District-Joint-Agreement.aspx](http://www.isbe.net/Pages/School-District-Joint-Agreement.aspx). ~~The budget instructions from ISBE detail when a deficit reduction plan must be completed.~~

⁸ [Id. The budget instructions from ISBE detail when a deficit reduction plan must be completed.](#) State law requires the budget to be balanced and, if not, a three-year deficit reduction plan must be developed. ~~105 ILCS 5/17-1.~~

Preliminary Adoption Procedures

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

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

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

At the public hearing, the proposed budget shall be reviewed, and the public shall be invited to comment, question, or advise the Board.¹²

Final Adoption Procedures

The Board adopts a budget before the end of the first quarter of each fiscal year, September 30, or by such alternative procedure as State law may define.¹³ To the extent possible, the budget shall be balanced as defined by ~~ISBE the State Board of Education~~; if not balanced, the Board will adopt a deficit reduction plan to balance the District's budget within three years according to ~~State Board of Education~~ ISBE requirements.¹⁴

The Board adopts the budget by roll call vote. The budget resolution shall be incorporated into the meeting's official minutes. Board members' names voting *yea* and *nay* shall be recorded in the minutes.¹⁵

The Superintendent or designee shall perform each of the following:

1. Post the District's final annual budget, itemized by receipts and expenditures, on the District's Internet website; notify parents/guardians that it is posted and provide the website's address.¹⁶
2. File a certified copy of the budget resolution and an estimate of revenues by source anticipated to be received in the following fiscal year, certified by the District's Chief Fiscal Officer, with the County Clerk within 30 days of the budget's adoption.¹⁷
3. Make all preparations necessary for the Board to timely file its Certificate of Tax Levy, including preparations to comply with the Truth in Taxation Act; file the Certificate of Tax

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

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

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

¹² State law does not address what transpires during the budget hearing.

¹³ Required by 105 ILCS 5/17-1 and 5/17-3.2. [See f/n 5.](#)

¹⁴ Required by 105 ILCS 5/17-1. See f/n 8.

¹⁵ Required by 105 ILCS 5/10-7.

¹⁶ Required by 105 ILCS 5/17-1.2, *only if* the district has a website. ~~Do not add~~[Delete](#) this sentence unless the district has a website.

¹⁷ Required by 35 ILCS 200/18-50, which refers to "appropriation and budget ordinances or resolutions." School districts adopt budgets by board resolution. The budget serves as the district's appropriation.

Levy with the County Clerk on or before the last Tuesday in December. The Certificate lists the amount of property tax money to be provided for the various funds in the budget.

4. Submit the annual budget, a deficit reduction plan if one is required by ISBE State Board of Education guidelines, and other financial information to ISBE the State Board of Education according to its requirements. ¹⁸

Any amendments to the budget or Certificate of Tax Levy shall be made as provided in the School Code and Truth in Taxation Act. ¹⁹

Budget Amendments

The Board may amend the budget by the same procedure as provided for in the original adoption. ²⁰

Implementation

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

The Board shall act on all interfund loans²¹, interfund transfers²², transfers within funds²³, and transfers from the working cash fund or abatements of it, if one exists. ²⁴

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¹⁸ Required by 105 ILCS 5/17-1.

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

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

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

²² 105 ILCS 5/17-2A contains the requirements for a permanent transfer. P.A.1024-67143 extended the time period during which a district may transfer money from specified funds for any purpose through June 30, 2024+.

²³ Transfers between the various items in any fund may not exceed in the aggregate ten percent of the total of such fund as set forth in the budget. If the aggregate exceeds 10%, the board must amend the budget. 105 ILCS 5/17-1.

²⁴ The purpose of the working cash fund is to enable the school district "to have in its treasury at all times sufficient money to meet demands for expenses." 105 ILCS 5/20-1. School officials, including board members, are liable "for any sum that may be unlawfully diverted from the working cash fund" 105 ILCS 5/20-6.

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

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

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

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

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Operational Services

Resource Conservation ¹

The Superintendent or designee shall manage a program of energy and resource conservation for the District that includes:

1. Periodic review of procurement procedures and specifications to ensure that purchased products and supplies are reusable, durable, or made from recycled materials, if economically and practically feasible. ²
2. Purchasing recycled paper and paper products in amounts that will, at a minimum, meet the specifications in the School Code, if economically and practically feasible. ³
3. Periodic review of procedures on the reduction of solid waste generated by academic, administrative, and other institutional functions. These procedures shall: (a) require recycling the District's waste stream, including landscape waste, computer paper, and white office paper, if economically and practically feasible; (b) include investigation of the feasibility of potential markets for other recyclable materials that are present in the District's waste stream; and (c) be designed to achieve, before July 1, 2020, at least a 50% reduction in the amount of solid waste that is generated by the District. ⁴
4. Adherence to energy conservation measures. ⁵

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¹ State or federal law controls this policy's content. 105 ILCS 5/10-20.19c.

² Required by 105 ILCS 5/10-20.19c(a-5).

³ Required by 105 ILCS 5/10-20.19c(b) - (e).

⁴ Required by 105 ILCS 5/10-20.19c(e-5). Everything in this paragraph is mandatory except that the statute only "encourages" districts to investigate "potential markets for other recyclable materials that are present in the school district's waste stream." 105 ILCS 5/10-20.19c(e-5) is unclear about what year or baseline number or year that a district must use to determine whether it has achieved at least a 50% reduction in the amount of solid waste that it generates by 7-1-20. One option for a baseline may be to use the date this law became effective, which was 7-18-08, or the year closest to it where-for which the district still retains relevant records; however, consult the board attorney for assistance in determining these baselines.

⁵ Districts are authorized to enter into *guaranteed energy savings contracts* to implement *energy conservation measures*, including any improvement, repair, or alteration of any school district building, or any equipment or fixture to be added to a district building, that is designed to reduce energy consumption or operation costs. 105 ILCS 5/19b. The guaranteed energy savings contract must provide that all payments are to be made over time, and energy cost savings must be specified and guaranteed to the extent necessary to pay the costs of the energy conservation measures. State law provides the process for requesting proposals and entering into contracts. Any contract is valid whether or not funding has been appropriated in any budget adopted by the board.

Consult the board attorney about whether an energy conservation measure qualifies for funding as an energy conservation project under the Ill. Finance Authority Act (FAA). 20 ILCS 3501/. The ~~FAA Ill. Finance Authority Act~~ now specifically includes energy conservation projects in school districts. 20 ILCS 3501/820-10(c). The ~~FAA~~'s definition of *energy conservation project* is ~~almost identical~~ very similar to the School Code's definition of *energy conservation measure* (105 ILCS 5/19b-1.1); it also includes measures that reduce the amount of electricity or natural gas required to achieve a given end use, consistent with the definition of energy efficiency in Section 1-10 of the Ill. Power Agency Act. 20 ILCS ~~3855/1-103501/820-10~~. Funding under the ~~Ill. Finance Authority Act~~ FAA requires a certification that the project will be a cost-effective energy-related project that will lower energy or utility costs in connection with the operation or maintenance of such building or facility, and will achieve energy cost savings sufficient to cover bond debt service and other project costs within 10 years from the date of project installation. 20 ILCS 3501/820-10(c).

LEGAL REF.: 105 ILCS 5/10-20.19c [and 5/19b](#).

CROSS REF.: 4:60 (Purchases and Contracts), 4:150 (Facility Management and Building Programs)

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Operational Services

Pandemic Preparedness; Management; and Recovery 1

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. ²

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. ³

To prepare the School District community for a pandemic, the Superintendent or designee shall:⁴ (1) learn and understand how the roles that the federal, State, and local government function; (2) form a

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¹ Certain subheads of this policy are required; specifically **Suspension of In-Person Instruction; Remote and/or Blended Remote Learning Day Plan(s)** (see f/n 12, below), and depending upon the specific terms of government orders and/or guidance issued during a pandemic, if a district wishes to continue to charge employee salaries and benefits to a grant during an extended school closure, **Payment of Employee Salaries During Emergency School Closures** (see f/n 11, below). Other subheads and text in this policy are optional. 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.

Boards are authorized to adopt a policy on pandemic preparedness even though State and federal law provide little guidance. On 3-11-20, the World Health Organization (WHO) characterized the COVID-19 outbreak as a pandemic. See www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020. Before the COVID-19 pandemic, most research and guidance around pandemics was specific to influenza, but the same principles for influenza pandemics were applied to the management of the COVID-19 pandemic. State law grants boards broad authority to formulate, adopt, and modify school board policies, at the board’s sole discretion, subject only to mandatory collective bargaining agreements and State and federal law. 105 ILCS 5/10-20.5 and 115 ILCS 5/1 et seq. See 2:20, *Powers and Duties of the School Board; Indemnification*, and also 2:240, *Board Policy Development*.

Information similar to this policy’s content may also be a part of a district’s safety plans, which the superintendent uses to implement the board’s direction in this policy.

See f/n 3, below for a definition of a pandemic. According to the Centers for Disease Control and Prevention (CDC) guidance, schools serve as an “amplification point” of flu epidemics. **School Superintendent’s Insider**, April 2007. School officials should be preparing for the flu pandemic as a U.S. Health and Human Services Pandemic Influenza Plan estimates that about 30 percent of the general population would become ill in a pandemic. The agency estimates among school-aged children the figure would be higher, about 40 percent. Sources: **NSBA and School Board News**, 3-14-2006.

² Multiple stakeholders at many levels and in many groups have important roles in effective pandemic preparedness, management, and recovery efforts. Stakeholders include federal departments and agencies, public health organizations, State and local health departments and laboratories, private health care organizations, influenza vaccine and antiviral manufacturers, and vaccine distributors and vaccinators. **Illinois Pandemic Influenza Preparedness and Response Plan**, Version 5.0, May 2014, *Concept of Operations 2.0*, page 36, at: www.idph.state.il.us/pandemic_flu/planning.htm.

³ This paragraph embodies the CDC’s pandemic definition. See www.cdc.gov/flu/pandemic-resources/basics/index.html—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.*

Prior to the COVID-19 pandemic, literature discussed that during an influenza pandemic, a new influenza virus will cause thousands or even millions of people to contract the disease and, in turn, spread the illness to others because people have not been previously exposed to the new virus. See **School Guidance During an Influenza Pandemic**, December 2006; Ill. State Board of Education (ISBE) opening letter to School Officials dated November 2006 from Dr. Randy J. Dunn and Dr. Eric Whitaker, at: www.idph.state.il.us/pandemic_flu/school_guide/sppg_letter.pdf.

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.

DRAFT

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⁴ 105 ILCS 5/10-16.7. The school board directs, through policy, the superintendent in his or her charge of the district's administration.

Emergency School Closing ⁵

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⁵ 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.

Local health departments, emergency medical agencies, and the Regional Office of Education (or appropriate Intermediate Service Center) may direct a school to close during a pandemic. See **School Guidance During an Influenza Pandemic**, December 2006; ISBE opening letter to school officials dated November 2006 from Dr. Randy J. Dunn and Dr. Eric Whitaker. This letter is at: www.idph.state.il.us/pandemic_flu/school_guide/sppg_letter.pdf. ~~Since the 2006 School Guidance During an Influenza Pandemic letter was written, several Illinois schools faced an H1N1 outbreak in 2009, and all Illinois schools faced the COVID-19 pandemic in 2020 and the years following.~~

The Ill. Dept. of Public Health (IDPH) is also authorized to order a place to be closed and made off-limits to the public to prevent the probable spread of a dangerously contagious or infectious disease. 20 ILCS 2305/2(b).

The Governor also has emergency powers upon his or her declaration of a disaster, which includes among other things public health emergencies. 20 ILCS 3305/4 and 3305/7. Upon such proclamation, the Governor has, and may exercise for a period not to exceed 30 days, several emergency powers. *Id.*

~~Since the 2006 School Guidance During an Influenza Pandemic letter was written, several Illinois schools faced an H1N1 outbreak in 2009, and all Illinois schools faced the 2020 COVID-19 pandemic.~~

During the 2009 H1N1 outbreak, ISBE directed schools with a statement titled *Closing School in Response to H1N1* that outlined "the decision to close school must be made locally by the school district and in conjunction and support with the relevant local public health department. The impact of a pandemic may vary from region to region. Therefore, it is crucial that district administrators rely on the advice and recommendations of their local public health department." 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/Pages/covid19.aspx ~~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 at: ‡

~~www.dph.illinois.gov/covid19/community-guidance/school-guidance.html~~

~~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/RestoreILP3.aspx~~

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. ⁶

During an emergency school closing, the Board President and the Superintendent⁷ 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. ⁸

Board Meeting Procedure; No Physical Presence of Quorum and Participation by Audio or Video ⁹

A disaster declaration related to a public health emergency¹⁰ 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.

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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 disaster declarations and Executive Orders \(EO\) at: www.coronavirus.illinois.gov/coronavirus.illinois.gov/s/resources-for-executive-orders](http://www.coronavirus.illinois.gov/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). [Certain EOs required schools to implement specific mitigations, including universal indoor masking, exclusion of close contacts, and vaccination/testing mandates for school personnel. The EOs and the implementing emergency rules adopted by ISBE and IDPH were the subject of frequent litigation, but as of the date of the publication of PRESS Issue 109, no Illinois court has issued a final decision addressing the Governor's authority to mandate such mitigations. See Austin v. Bd. of Educ. of Cmty. Unit. Sch. Dist. 300 et al. v. Pritzker, 2022 IL 128205 \(Ill. 2022\). Therefore, the scope of the Governor's authority over schools in a pandemic remains unsettled. Some school personnel objected to the vaccination/testing mandate under the Health Care Right of Conscience Act \(HCRCA\), 745 ILCS 70/. The General Assembly subsequently amended the HCRCA to clarify that it is not a violation of the HCRCA for public officials or employers to require services by health care personnel \(such as testing\) intended to prevent the transmission of COVID-19. 745 ILCS 70/13.5, added by P.A. 102-667. Following the HCRCA amendment, an Illinois appellate court denied plaintiff employees emergency relief from the vaccination/testing mandate for school personnel, finding that their claims under the HCRCA were unlikely to succeed. Graham v. Pekin Fire Dept., et al., 2022 IL App \(4th\) 220270 \(4th Dist. 2022\).](#)

⁶ Use this alternative for districts in suburban Cook County: replace "Regional Office of Education" with "appropriate Intermediate Service Center."

⁷ For a board that prefers its policy committee to engage in this work, delete ~~Board President and the Superintendent~~ and insert: Board Policy Committee. See policies 2:150, *Committees* and 2:240, *Board Policy Development*. 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.

⁸ For an example of some issues that these entailed during the 2020-COVID-19 pandemic, see paragraph six of f/n 12, below.

⁹ 5 ILCS 120/2.01 and 120/7(e), respectively amended and added by P.A. 101-640. See also 105 ILCS 5/10-6, ~~and~~ 5/10-12, and 5/10-16.

¹⁰ While 5 ILCS 120/7(e)(1), ~~added/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." For more discussion, see f/n 33 in sample policy 2:220, *School Board Meeting Procedure*.

Payment of Employee Salaries During Emergency School Closures ¹¹

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)

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 a Remote and/or Blended Remote Learning Day Plan¹² (Plan) that: ¹³

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

¹¹ 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/. See sample procedure 4:180-AP3, *Grant Flexibility; Payment of Employee Salaries During a Pandemic*, and its footnotes.

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.

¹² 105 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)* 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).

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To avoid confusion, note that the triggers under the Open Meetings Act (OMA), 5 ILCS 120/7(e), ~~added/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 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/BRLDs. RLD/BRLDs and *e-learning days/e-learning programs* are different. 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 BLRDs (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.

If the board has adopted an e-learning program pursuant to 105 ILCS 5/10-20.56, added by P.A. 101-12, add the following text to number two after 105 ILCS 5/10-30:

2. by adapting into a Plan the District’s e-learning program implemented pursuant to 105 ILCS 5/10-20.56

See [sample 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](#), and Executive Order 2020-31 (~~addressing the statutory minimum state graduation requirements~~[temporarily suspending certain State assessment and graduation requirements](#) (not local requirements that exceed the State-identified minimums)) and allowing local school boards to amend policies to reduce any local graduation requirements adopted in excess of the minimum requirements specified in School Code that school districts were unable to complete during the 2019-20 school year due to the suspension of in-person instruction and/or the Stay-at-Home orders issued in response to the ~~2020-COVID-19 pandemic~~. ~~Executive Order 2020-31 provided the following proclamations:~~

~~Section 8. The following provisions of the Illinois School Code, 105 ILCS 5/1-1 et seq., requiring certain assessments and courses for twelfth grade students, are suspended:~~

~~a.—105 ILCS 5/2-3.64a-5(c) (requirement to take State assessments),~~

~~b.—105 ILCS 5/27-3 (requirement to pass a satisfactory examination on patriotism and the principles of representative government),~~

~~e.—105 ILCS 5/27-6(a) (requirement to engage in a course of physical education for a minimum of 3 days per 5-day week), and~~

~~d.—105 ILCS 5/27-12.1(a) (requirement to be taught consumer education).~~

~~Section 9. The provision of the Illinois School Code, 105 ILCS 5/10-22.43a, requiring the successful completion of a foreign language proficiency examination for students whose foreign language credit is met through an approved ethnic school program, is suspended.~~

~~Section 10. The provision of the Illinois School Code, 105 ILCS 5/27-6.5, requiring physical assessments, is suspended.~~

~~Section 11. The provision of the Illinois School Code, 105 ILCS 5/27-22(e), requiring the successful completion of certain courses as a prerequisite to receiving a high school diploma, is suspended for twelfth grade students who are unable to complete such coursework as a result of the suspension of in-person instruction due to COVID-19.~~

~~Section 12. The provision of the Illinois School Code, 105 ILCS 5/27-21, requiring eight grade students to demonstrate evidence of having a comprehensive knowledge of the history of the United States as a prerequisite to eight grade graduation, is suspended.~~

~~Section 13. Twelfth grade students shall not be denied credit for apprenticeships or vocational or technical education courses allowed to be substituted for graduation requirements under the Illinois School Code, 105 ILCS 5/27-22.05, due to the student’s inability to complete those course substitutions as a result of the suspension of in-person instruction due to COVID-19.~~

~~Section 14. The Illinois State Board of Education shall file emergency rules as needed to effectuate the intent of this Executive Order, including to suspend any regulatory provision related to: (1) student graduation requirements; or (2) student teaching, supervised field experience, or internship requirements for professional educator licenses or endorsements.~~

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; ¹⁴
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)

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

¹³ 105 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.

¹⁴ 105 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.

General Personnel

Communicable and Chronic Infectious Disease ¹

The Superintendent or designee shall develop and implement procedures for managing known or suspected cases of a communicable and chronic infectious disease involving District employees that are consistent with State and federal law, Illinois Department of Public Health rules, and School Board policies. ²

An employee with a communicable or chronic infectious disease is encouraged to inform the Superintendent immediately and grant consent to being monitored by the District's Communicable and Chronic Infectious Disease Review Team. The Review Team, if used, provides information and recommendations to the Superintendent concerning the employee's conditions of employment and necessary accommodations. The Review Team shall hold the employee's medical condition and records in strictest confidence, except to the extent allowed by law. ³

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

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

² District employment is contingent upon satisfactory results of a physical examination and freedom from communicable diseases. 105 ILCS 5/24-5. The U.S. Supreme Court, however, has held that the Rehabilitation Act prohibits discrimination against a person handicapped by a communicable disease, provided that person is "otherwise qualified" to perform the job. See *Sch. Bd. of Nassau County, Fla. v. Arline*, 480 U.S. 273 (1987) (teacher with tuberculosis was protected by the Rehabilitation Act). The decision supports the position that an HIV-positive employee or applicant who is "otherwise qualified" to perform the job must be reasonably accommodated despite having AIDS.

Following the expansion of the definition of a disability under the Americans with Disabilities Act Amendments Act (ADAAA), Pub. L. 110-325, the ADAAA may protect an HIV-positive employee or applicant. 42 U.S.C. §12102(2)(A); 29 C.F.R. Part 1630. The federal government's position is that HIV infection qualifies as a disability under the Americans ADAAA. See: www.ada.gov/hiv/ada_hiv_enforcement.htm www.ada.gov/hiv/ada_q&a_aids.pdf (U.S. Dept. of Justice) and www.eeoc.gov/eeoc/publications/hiv_individual.cfm (U.S. Equal Employment Opportunity Commission (EEOC)). The EEOC also issued guidance on COVID-19 as a potential disability requiring accommodation under the ADA, see *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws* (updated 12-14-21) at www.eeoc.gov/coronavirus.

For a discussion of guidance and challenges related to school personnel vaccination/testing mandates and other mitigations during the COVID-19 pandemic, see sample policy 4:180, *Pandemic Preparedness; Management; and Recovery*, at f/n 5.

Other contagious diseases may also qualify as disabilities under the ADAAA; however, employers are not required to accommodate employees in those cases where there is an actual direct threat to the health or safety of others that cannot be eliminated or reduced by reasonable accommodation. 29 C.F.R. §1630.2(r). Boards should consult with their attorneys regarding how the ADAAA and its implementing regulations impact the employment of an individual with a communicable disease who is otherwise qualified to perform the job.

³ This paragraph is optional. While not required by law, the creation and use of a Communicable and Chronic Infectious Disease Review Team (CCIDRT) could greatly assist a district's efforts to review data on an employee who has a communicable or infectious disease. Its members are appointed by the superintendent according to [sample policy 2:150, Committees](#). Whether the CCIDRT is an administrative committee organized by the superintendent and/or administrators or a board committee subject to the Open Meetings Act must be discussed with the board attorney (see also 2:150-AP, *Superintendent Committees*). The CCIDRT is guided by the board's policies, Ill. Dept. of Public Health rules and regulations, and all other applicable State and federal laws. The CCIDRT also consults the employee's personal physician and local health department officials before making any recommendations.

An employee with a communicable or chronic infectious disease will be permitted to retain his or her position whenever, after reasonable accommodations and without undue hardship, there is no substantial risk of transmission of the disease to others, provided an employee is able to continue to perform the position's essential functions.⁴ An employee with a communicable and chronic infectious disease remains subject to the Board's employment policies including sick and/or other leave, physical examinations, temporary and permanent disability, and termination.

LEGAL REF.: ~~Americans With Disabilities Act, 42 U.S.C. §12101 et seq., Americans With Disabilities Act, amended by the Americans with Disabilities Act Amendments Act (ADAAA), Pub. L. 110-325; 29 C.F.R. §1630.1 et seq., amended by the Americans with Disabilities Act Amendments Act (ADAAA), Pub. L. 110-325.~~
~~Rehabilitation Act of 1973, 29 U.S.C. §791, Rehabilitation Act of 1973; 34 C.F.R. §104.1 et seq.~~
~~105 ILCS 5/24-5.~~
~~Department of Public Health Act, 20 ILCS 2305/6, Department of Public Health Act.~~
~~105 ILCS 5/24-5.~~
~~Personnel Record Review Act, 820 ILCS 40/, Personnel Record Review Act.~~
~~Control of Communicable Diseases, 77 Ill.Admin.Code Part 690, Control of Communicable Diseases.~~

Commented [DJ1]: Legal References are revised for style only.

CROSS REF.: 2:150 (Committees), 4:180 (Pandemic Preparedness; Management; and Recovery), 5:30 (Hiring Process and Criteria), 5:180 (Temporary Illness or Temporary Incapacity)

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The Americans with Disabilities Act (ADA) specifies that only an employee's direct supervisor and someone who would need to know in the event of an emergency may have access to an employee's medical records. 42 U.S.C. §12112(d). The Review Team's ability to operate may depend on the employee's waiver of the ADA's confidentiality provisions.

⁴ Required by 42 U.S.C. §12101 et seq. See also f/n 2, above.

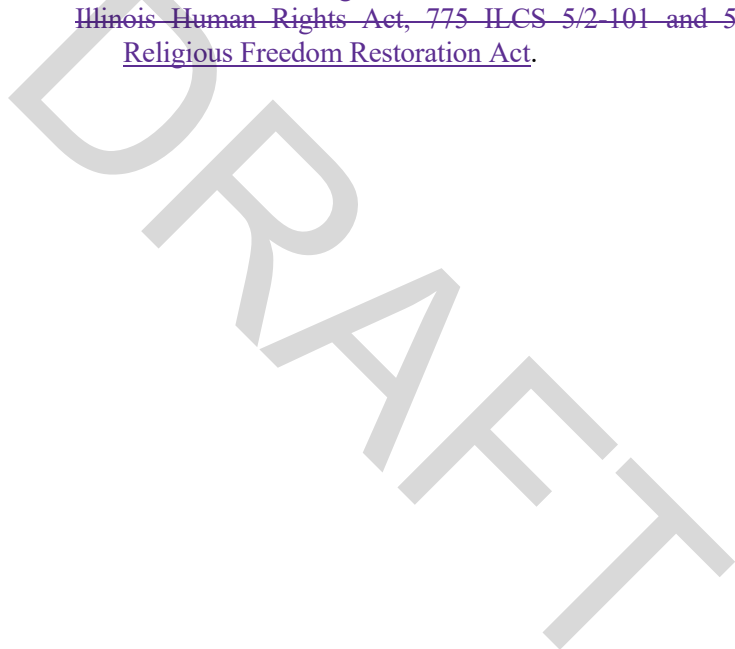
General Personnel

Religious Holidays ¹

The Superintendent shall grant an employee’s request for time off to observe a religious holiday if the employee gives at least five days’ prior notice and the absence does not cause an undue hardship.²

Employees may use earned vacation time or personal leave to make up the absence, provided such time is consistent with the District’s operational needs. A per diem deduction may also be requested by the employee.³

LEGAL REF.: ~~Religious Freedom Restoration Act, 775 ILCS 35/15~~ 775 ILCS 5/2-101 and 5/2-102, Ill. Human Rights Act.
~~Illinois Human Rights Act, 775 ILCS 5/2-101 and 5/2-102~~ 775 ILCS 35/155, Religious Freedom Restoration Act.



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

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. If a local collective bargaining agreement contains a provision on religious holidays, it will supersede this policy for those covered employees. In such cases, the board policy should be amended to state, “Please refer to the applicable collective bargaining agreement(s).” For employees not covered, the policy should reflect the board’s current practice.

² *Religion* includes “all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that it is unable to reasonably accommodate an employee’s or prospective employee’s religious observance or practice without undue hardship on the conduct of the employer’s business.” 775 ILCS 5/2-101(F). School employers may require employees to provide up to five days’ notice before being absent for a religious holiday. 775 ILCS 5/2-102(E).

³ Not provided by law and optional.

General Personnel

Court Duty ¹

~~The District will pay full salary during the time an employee is absent due to court duty or, pursuant to a subpoena, serves as a witness or has a deposition taken in any school-related matter pending in court.~~²

The District will deduct any fees that an employee receives for ~~such duties~~ court duty, less mileage and meal expenses, from the employee’s compensation, or make arrangements for the employee to endorse the fee check to the District.³

An employee should give at least five days’ prior notice of pending court duty to the District.⁴

Witness Duty

~~The District will pay full salary during the time a licensed employee is absent due to a subpoena to serve as a witness in a trial or have a deposition taken in any school-related matter pending in court.~~⁵

Jury Duty

~~The District will pay full salary during the time a licensed employee is absent due to jury duty.~~⁶

LEGAL REF.: 105 ILCS 5/10-20.7.
705 ILCS 305/4.1, Jury Act.

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

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

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. If a local collective bargaining agreement contains a provision on court duty, it will supersede this policy for those covered employees. In such cases, the board policy should be amended to state, “Please refer to the applicable collective bargaining agreement.” For employees not covered, the policy should reflect the board’s current practice.

For more information about subpoenas of school district employees and responding to all types of subpoenas generally, see the Ill. Council of School Attorneys guidance document titled [Answers to FAQs Responding to a Subpoena](http://www.iasb.com/law/FAQsubpoena.pdf), at: www.iasb.com/law/FAQsubpoena.pdf.

~~² State law mandates this provision for certificated employees only. 105 ILCS 5/10-20.7.~~

³ State law permits these deductions but does not mandate them. 105 ILCS 5/10-20.7.

⁴ State law does not provide a deadline, and a district cannot refuse to pay full salary to an employee who fails to follow the policy’s deadline.

~~⁵ The School Code mandates this provision for certificated [licensed] employees serving witness duty. 105 ILCS 5/10-20.7. Despite the statute’s limitation to licensed employees, many boards apply this language to educational support personnel. For boards that wish to apply this language to both licensed and educational support personnel, strike ~~licensed~~ from the text and correct the grammar.~~

~~⁶ The School Code mandates this provision for certificated [licensed] employees serving jury duty. 105 ILCS 5/10-20.7. In contrast, the Jury Act requires that employers give any employee time off from employment for jury duty, but it does not require that employers pay the employee while on jury duty. 705 ILCS 305/4.1. Despite the statute’s limitation to licensed employees, many boards apply this language to educational support personnel. For boards that wish to apply this language to both licensed and educational support personnel, strike ~~licensed~~ from the text and correct the grammar.~~

General Personnel

Recognition for Service¹

The School Board will periodically recognize those District employees who contribute significantly to the educational programs and welfare of the students.

DRAFT

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

¹ Nothing in this policy is required by law and districts should customize it to meet their needs.

School districts and communities can honor local people for their contributions to local elementary and secondary schools through the following annual Ill. State Board of Education programs: Those Who Excel/Illinois Teacher of the Year, Those Who Excel, Illinois Excellence in Education, and Gilder Lehrman National History Teacher of the Year Award Program. Awards of Excellence, Merit, Recognition, and Honorable Mention are generally given in seven categories—classroom teacher (licensed), educational service personnel (noncertificated), early career educator, school administrator, school board member/community volunteer, student support personnel (certificated), and team. Award of Excellence winners in the classroom teacher category are eligible to become finalists for Illinois Teacher of the Year. Nominations for the awards are sent to the Illinois State Board of Education (ISBE) by June 15. An awards banquet is held in the fall. Questions regarding the program should be directed to ISBE, Public Information at 217/782-4648. Other Further information is available online at: www.isbe.net/Pages/Elevating-Educators.aspx
www.isbe.net/Pages/Those-who-excel.aspx.

General Personnel

Solicitations By or From Staff ¹

District employees shall not solicit donations or sales, nor shall they be solicited for donations or sales, on school grounds without prior approval from the Superintendent.

CROSS REF.: 8:90 (Parent Organizations and Booster Clubs)

DRAFT

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

¹ This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. If a local collective bargaining agreement contains a provision on this issue, it will supersede this policy for those covered employees. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement." For employees not covered, the policy should reflect the board's current practice.

Professional Personnel

Suspension ¹

Suspension Without Pay ²

The School Board may suspend without pay: (1) a professional employee pending a dismissal hearing, or (2) a teacher as a disciplinary measure for up to 30 employment days for misconduct that is detrimental to the School District. Administrative staff members may not be suspended without pay as a disciplinary measure. ³

Misconduct that is detrimental to the School District includes:

- Insubordination, including any failure to follow an oral or written directive from a supervisor;
- Violation of Board policy or Administrative Procedure;
- Conduct that disrupts or may disrupt the educational program or process;
- Conduct that violates any State or federal law that relates to the employee's duties; and
- Other sufficient causes.

The Superintendent or designee is authorized to issue a pre-suspension notification to a professional employee. This notification shall include the length and reason for the suspension as well as the deadline for the employee to exercise his or her right to appeal the suspension to the Board or Board-appointed hearing examiner before it is imposed. At the request of the professional employee made within five calendar days of receipt of a pre-suspension notification, the Board or Board-appointed

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

¹ State and federal law control this policy’s content. The School Code provides that, “[i]f, in the opinion of the board, the interests of the school require it, the board may suspend the teacher **without pay**, pending the hearing, but if the board’s dismissal or removal is not sustained, the teacher shall not suffer the loss of any salary or benefits by reason of the suspension,” 105 ILCS 5/24-12(d)(1).

This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. If a local collective bargaining agreement contains provisions on suspension, it will supersede this policy for those covered employees. In such cases, the board policy should be amended to state, “Please refer to the applicable collective bargaining agreement.” For employees not covered, the policy should reflect the board’s current practice.

A superintendent or board should consult the board attorney before taking any action to suspend a licensed employee, with or without pay.

² Under the wage and hours rules, employees who are exempt from overtime requirements become eligible for overtime if they are subject to disciplinary suspensions without pay. *Auer v. Robbins*, 519 U.S. 452 (1997). Teachers are exempt from this rule. Although the U.S. Dept. of Labor modified this rule in 2004, the Illinois legislature rejected these rule changes. 820 ILCS 105/4a. Illinois employers must use the federal rules as they existed on March 30, 2003. This sample policy takes a conservative approach: it does not subject non-teaching professional employees to disciplinary suspensions without pay. Some attorneys believe that non-teaching exempt employees, e.g., administrators, will remain exempt from the Fair Labor Standards Act’s overtime requirements as long as suspensions are in increments of a full work week - not day-by-day. Contact the board attorney for an opinion.

The 30-day limit may be modified or deleted.

³ A difference of opinion exists among attorneys concerning whether a board is permitted to authorize the superintendent to suspend teachers without pay. Some attorneys believe such a delegation is void because of the language in 105 ILCS 5/24-12(d)(1), quoted in f/n 1. Others believe that a board may delegate the authority to the superintendent to suspend teachers without pay as a disciplinary measure as opposed to pending a dismissal hearing. Contact the board attorney for advice if the board wants to authorize the superintendent to suspend professional employees without pay.

hearing examiner will conduct a pre-suspension hearing.⁴ The Board or its designee shall notify the professional employee of the date and time of the hearing. At the pre-suspension hearing, the professional employee or his/her representative may present evidence. If the employee does not appeal the pre-suspension notification, the Superintendent or designee shall report the action to the Board at its next regularly scheduled meeting.

Suspension With Pay

The Board or Superintendent or designee may suspend a professional employee with pay: (1) during an investigation into allegations of disobedience or misconduct whenever the employee's continued presence in his or her position would not be in the School District's best interests, (2) as a disciplinary measure for misconduct that is detrimental to the School District as defined above, or (3) pending a Board hearing to suspend a teacher without pay.

The Superintendent shall meet with the employee to present the allegations and give the employee an opportunity to refute the charges. The employee will be told the dates and times the suspension will begin and end.⁵

Employees Under Investigation by Illinois Dept. of Children and Family Services (DCFS)⁶

Upon receipt of a DCFS recommendation that the District remove an employee from his or her position when he or she is the subject of a pending DCFS investigation that relates to his or her employment with the District, the Board or Superintendent or designee,⁷ in consultation with the Board Attorney, will determine whether to:

1. Let the employee remain in his or her position pending the outcome of the investigation; or
2. Remove the employee as recommended by DCFS, proceeding with:
 - a. A suspension with pay; or
 - b. A suspension without pay.

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

⁴ Some case law suggests a separate hearing must be held before any suspension without pay is invoked: Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (1985); Barszcz v. Community College Dist. No. 504, 400 F.Supp. 675 (N.D. Ill., 1975); Massie v. East St. Louis Sch. Dist. No. 189, 203 Ill.App.3d 965 (5th Dist.1990); Spinelli v. Immanuel Lutheran Evangelical Congregation, Inc., 118 Ill.2d 389 (1987).

⁵ Only minimal due process is required before a suspension with pay because the property interests at stake are insignificant. Some due process is recommended, however, because a suspension might jeopardize a teacher's good standing in the community and thus infringe the teacher's liberty interests protected by the Constitution. The following option places a ceiling on the number of suspension-with-pay days; the 30-day limit may be modified:

No suspension with pay shall exceed 30 school or working days in length.

⁶ Optional. 325 ILCS 5/7.4(c-5), ~~amended by P.A. 100-176, eff. 1-1-18~~. Consult the board attorney about suspending an employee without pay pursuant to a *DCFS 325 ILCS 5/7.4(c-5)-recommendation*. This language balances the interests of student safety and employee due process when the district receives a recommendation to remove an employee who is the subject of a DCFS investigation from employment.

Note: Liability may exist when a district receives a *325 ILCS 5/7.4(c-5)-recommendation* and does not remove the employee as a result. Consider In re Estate of Stewart v. Oswego Cmty. Unit. Sch. Dist. No. 308, 406 Ill.Dec. 345 (2nd Dist. 2016)(finding district's response to a student health emergency was willful and wanton as it had prior information regarding appropriate response protocols and denying tort immunity to district); In re Estate of Stewart, 412 Ill.Dec. 914 (Ill. 2017)(school district's appeal denied).

⁷ The text "Board or Superintendent or designee" allows flexibility if the Superintendent were the subject of a DCFS investigation.

Repayment of Compensation and Benefits

If a professional employee is suspended with pay, either voluntarily or involuntarily, pending the outcome of a criminal investigation or prosecution, and the employee is later dismissed as a result of his or her criminal conviction, the employee must repay to the District all compensation and the value of all benefits received by him or her during the suspension.⁸ The Superintendent will notify the employee of this requirement when the employee is suspended.

LEGAL REF.: [105 ILCS 5/24-125 ILCS 430/5-60\(b\)](#),
[5 ILCS 430/5-60\(b\), State Officials and Employee Ethics Act](#)~~105 ILCS 5/24-12~~,
[325 ILCS 5/7.4\(c-10\), Abused and Neglected Child Reporting Act](#),
[Cleveland Bd. of Educ. v. Loudermill](#), 470 U.S. 532 (1985).
[Barszcz v. Community College Dist.](#) ~~riet~~ No. 504, 400 F.Supp. 675 (N.D. Ill.,
1975).
[Massie v. East St. Louis Sch. Dist.](#) ~~riet~~ No.189, 203 Ill.App.3d 965 (5th Dist. 1990).

CROSS REF.: 5:290 (~~Educational Support Personnel~~—Employment Termination and
Suspensions)

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

⁸ This sentence restates State law. 5 ILCS 430/5-60(b).

Instruction

Teaching About Religions ¹

The School District's curriculum may include the study of religions as they relate to geography, history, culture, and the development of various ethnic groups. The study of religions shall give neither preferential nor derogatory treatment to any single religion, religious belief, or to religion in general. The study of religions shall be treated as an academic subject with no emphasis on the advancement or practice of religion.²

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

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

² Conducting or sponsoring religious practices in public schools violates the First Amendment to the U.S. Constitution. A school district may not provide for religious instruction on public school property. McCullum v. Board of Educ., 333 U.S. 203 (1948); Engel v. Vitale, 370 U.S. 421 (1962) (reciting a prayer); School Dist. of Abington Twp v. Schempp, 374 U.S. 203 (1963) and Chamberlin v. Dade Co. Board of Public Instruction, 377 U.S. 402 (1964) (bible reading and prayer); Stone v. Graham, 449 U.S. 39 (1980) (posting of the Ten Commandments); and Wallace v. Jaffree, 472 U.S. 38 (1985) (a moment of silence for "meditation and prayer").

See also Kitzmiller v. Dover Area School Dist., 400 F.Supp.2d 707 (M.D.Pa. 2005). This decision struck a policy on the teaching of intelligent design in high school biology class. The policy required students to hear a statement mentioning intelligent design as an alternative to Darwin's theory of evolution. The court held that it amounted to an endorsement of religion in violation of the Establishment Clause.

The Establishment Clause, however, permits teaching about religion as part of a balanced, secular education. Thus, the study of the Bible or religion is permissible when presented objectively as part of a secular education. School Dist. of Abington v. Schempp, 374 U.S. at 225-03 (1963). See also Subsection III(B), *Teaching about Religion*, of the U.S. Dept. of Educ.'s *Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools* (1-16-20), at: www2.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html.

Generally, holiday observations will survive constitutional scrutiny if they advance society's cultural and religious heritage or provide an opportunity for students to perform a full range of music, poetry, and drama that is likely to interest the students and their audience. Florey v. Sioux Falls School Dist., 619 F.2d 1311 (8th Cir. 1980), approved a school board policy concerning holiday observations. That policy acknowledged that the school district would not promote a religious belief or non-belief. The policy allowed the historical and contemporary values and origins of religious holidays to be explained in an unbiased and objective manner. Furthermore, it permitted the use of religious music, art, literature, and symbols if presented in an objective manner and as part of the cultural and religious heritage of the particular holiday. The Court believed that Christmas programs, including Christmas carols, allowed students to learn about this country's customs and cultural heritage. ~~Of course, a~~ student who objects to participating in such programs must be accommodated.

Public schools are prohibited from appearing to endorse or promote religion through religious holiday displays. Whether a particular display endorses or promotes religion will depend upon the particular context in which it appears. A display that is purely religious and located prominently may send the message that the school is endorsing religion. Mixing secular symbols with the religious symbols and injecting cultural and historical messages into the holiday display will more likely make it acceptable. Allegheny County v. Pittsburgh ACLU, 492 U.S. 573 (1989). See also Freedom From Religion Foundation v. Concord Community Schs., ~~F.Supp.3d~~, 2016 WL 4798964 (N.D. In. 2016) 885 F.3d 1038 (7th Cir. 2018) (finding that school's annual holiday show was not impermissibly coercive in violation of the Establishment Clause and that show's nativity scene did not endorse religion).

See also Skoros v. City of New York, 437 F.3d 1 (2nd Cir. 2006). This decision upheld a holiday display policy restricting displays to "secular" symbols, including Christmas trees, menorahs, and the star and crescent, but not allowing displays of a crèche or nativity scene. The ruling was not on the question of whether a public school ever could include a crèche in a display. Instead, the case upheld the board's decision to classify Christmas trees, menorahs, and the star and crescent as either secular or as being both religious and secular, whereas a crèche "is solely a religious symbol."

LEGAL REF.: School Dist. of Abington Twp v. Schempp, 374 U.S. 203 (1963).
Allegheny County v. ACLU Pittsburgh Chapter, 492 U.S. 573 (1989).

CROSS REF.: 6:20 (School Year Calendar and Day), 6:40 (Curriculum Development), 6:60 (Curriculum Content), 6:255 (Assemblies and Ceremonies)

DRAFT

Instruction

Teaching About Controversial Issues ¹

The Superintendent shall ensure that all school-sponsored presentations and discussions of controversial or sensitive topics in the instructional program, including those made by guest speakers, are:

- Age-appropriate. Proper decorum, considering the students' ages, should be followed.
- Consistent with the curriculum and serve an educational purpose. ²
- Informative and present a balanced view.
- Respectful of the rights and opinions of everyone. Emotional criticisms and hurtful sarcasm should be avoided.
- Not tolerant of profanity or slander.

The District specifically reserves its right to stop any school-sponsored activity that it determines violates this policy, is harmful to the District or the students, or violates State or federal law.

LEGAL REF.: [Garcetti v. Ceballos, 547 U.S. 410 \(2006\).](#)
 [Mayer v. Monroe Cnty. Cmty. Sch. Corp., 474 F.3d 477 \(7th Cir. 2007\).](#)

CROSS REF.: 6:40 (Curriculum Development), 6:255 (Assemblies and Ceremonies)

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

¹ This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. Before adopting this policy, a school board should review the scope of any clause on academic freedom contained in a collective bargaining agreement.

While this sample policy and its contents are discretionary with each board, its implementation should respect the constitutional rights of students and teachers to free speech and free association. The intent of this policy is to inform students, staff members, and the community that the board has established standards for the teaching and discussion of controversial topics in order to avoid culture wars from being fought in school.

² Public employee First Amendment issues involve the balance between the importance of the speech and the district's interest in maintaining order and effective school operations. The First Amendment "does not entitle primary and secondary teachers, when conducting the education of captive audiences, to cover topics, or advocate viewpoints, that depart from the curriculum adopted by the school system." [Mayer v. Monroe County Community Sch. Corp., 474 F.3d 477, 480 \(7th Cir. 2007\)](#). See also [Brown v. Chicago Bd. of Educ., 824 F.3d 713 \(7th Cir. 2016\) \(upholding discipline of a teacher for violating written policy against using racial epithets in front of students even though he did so to conduct a well-intentioned discussion of why such words are hurtful and must not be used\)](#); [Kluge v. Brownsburg Cmty. Sch. Corp., 432 F.Supp.3d 823 \(S.D.Ind. 2020\) \(upholding discipline of a teacher for violating written policy requiring employees to address students by their preferred names and genders\)](#). Nor is the First Amendment likely to entitle a teacher to protection for purely personal speech that does not touch on a matter of public concern. See [Pickering v. High Sch. Dist. 205, 391 U.S. 563 \(1968\)](#). However, when public employees speak as private citizens on their own time about matters of public concern, they may face only those speech restrictions that are necessary for their employers to operate efficiently and effectively. [Garcetti v. Ceballos, 547 U.S. 410 \(2006\)](#).

Instruction

Education of Homeless Children ¹

Each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education as provided to other children and youths, including a public pre-school education.² A *homeless child* is defined as provided in the McKinney-Vento Homeless Assistance Act and the ~~III~~-Education for Homeless Children Act.³ The Superintendent or designee shall act as or appoint a Liaison for Homeless Children to coordinate this policy's implementation.⁴

A homeless child may attend the District school that the child attended when permanently housed or in which the child was last enrolled. A homeless child living in any District school's attendance area may attend that school.⁵

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

¹ State and federal law control this policy's content. This sample policy contains the basic requirements of the ~~III~~-Education for Homeless Children Act (105 ILCS 45/), as well as the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11431 *et seq.*). Other policies that are relevant to the education of homeless children are listed in the Cross References, e.g., school admissions and immunizations.

² For high school districts, delete "including a public pre-school education" at the end of the sentence.

³ Under the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11434a(2)), ~~H~~*homeless children and youths* (A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302(a)(1)); and (B) includes —

- i. children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; ~~or are abandoned in hospitals, or are awaiting foster care placement;~~
- ii. children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of ~~S~~section 11302(a)(2)(C));
- iii. children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- iv. *migratory* children (as such term is defined in section 6399 of title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).

Note: Section §11434a(2) no longer includes children "awaiting foster care placement" within the definition of *homeless children and youths*.

Under the ~~III~~-Education for Homeless Children Act (105 ILCS 45/1-5),

Homeless person, child, or youth includes, but is not limited to, any of the following:

- (1) An individual who lacks a fixed, regular, and adequate nighttime place of abode.
- (2) An individual who has a primary nighttime place of abode that is:
 - (A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);
 - (B) an institution that provides a temporary residence for individuals intended to be institutionalized; or
 - (C) a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings.

See www.isbe.net/Pages/Homeless.aspx for helpful informational resources and training with regard to the education of homeless children in Illinois. See www2.ed.gov/programs/homeless/legislation.html for the U.S. Dept. of Education's information about federal requirements.

⁴ 42 U.S.C. §11432(g)(l)(J)(ii).

⁵ 105 ILCS 45/1-10.

The Superintendent or designee shall review and revise rules or procedures that may act as barriers to the enrollment of homeless children and youths. In reviewing and revising such procedures, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship.⁶ Transportation shall be provided in accordance with the McKinney-Vento Homeless Assistance Act and State law.⁷ The Superintendent or designee shall give special attention to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school.⁸ If a child is denied enrollment or transportation under this policy, the Liaison for Homeless Children shall immediately refer the child or his or her parent/guardian to the ombudsperson appointed by the Regional Superintendent and provide the child or his or her parent/guardian with a written explanation for the denial.⁹ Whenever a child and his or her parent/guardian who initially share the housing of another person due to loss of housing, economic hardship, or a similar hardship continue to share the housing, the Liaison for Homeless Children shall, after the passage of 18 months and annually thereafter, conduct a review as to whether such hardship continues to exist in accordance with State law.¹⁰

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

⁶ The first sentences in this paragraph are required by 42 U.S.C. §11432(g)(7). 410 ILCS 535/25.3, amended by P.A. 100-506, ~~eff. 1-1-18~~, requires fees for certified copies of birth records be waived for individuals whose homeless status has been verified. A public school homeless liaison or school social worker may verify homeless status, in accordance with procedures established by the State Registrar of Vital Records. *Id.*

⁷ 42 U.S.C. §11432(g)(1)(J)(iii), 42 U.S.C. §11432(g)(4)(A), and 105 ILCS 45/1-15. The School Code and Education for Homeless Children Act permit school districts to use their State transportation funds to provide financial assistance to children who are homeless or who qualify as *at risk of becoming homeless* when: (1) the financial assistance is not in excess of the district's actual costs for providing the transportation to the student, and (2) the district is not otherwise claiming the expenditures through another State or federal grant. 105 ILCS 5/29-5 (transportation reimbursement), ~~amended by P.A. 102-539~~, and 105 ILCS 45/1-17 (homeless assistance), ~~amended by P.A. 100-332~~. A child is considered *at risk of becoming homeless* if the child's parent/-guardian, other person who enrolls the child, or unaccompanied minor provides documented evidence that the child's living situation will no longer be fixed, regular, and adequate within eight weeks, resulting in the child becoming homeless. 105 ILCS 45/1-17(d). ~~Prior to A district that provides~~ such financial assistance, a district must enter into a written housing plan with the parent/guardian, person who enrolled the child, or unaccompanied minor. *Id.* at 1-17(c). Financial assistance may include: (1) mortgage or rental assistance that will allow a child to remain permanently in his/her living situation or obtain a new living situation; and/or (2) assistance with unpaid bills, loans, or other financial debts that result in housing being inadequate. *Id.* at 1-17(a). See 6:140-AP, *Education of Homeless Children*, f/n 1, for a discussion of issues that districts should consider in developing such plans.

⁸ Required by 42 U.S.C. §11432(g)(7)(C).

⁹ Required by 105 ILCS 45/1-25. The Ill. State Board of Education's *Homeless Dispute Resolution Procedures* (published September 2017 ~~and updated December 2021~~) are available at: www.isbe.net/Pages/Homeless.aspx.

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "~~appropriate~~ Intermediate Service Center ~~Executive Director~~."

¹⁰ Optional. 105 ILCS 45/1-25(a-5). As an alternative, a school board may omit this sentence or use a permissive verb, such as, "...the Liaison for Homeless Children may, after the passage of 18 months and annually thereafter, conduct..." Any change required as a result of this review becomes effective at the close of the school year. Any person who knowingly or willfully presents false information in any review commits a Class C misdemeanor.

LEGAL REF.: ~~McKinney-Vento Homeless Assistance Act~~, 42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.
~~Ill. Education for Homeless Children Act~~, 105 ILCS 45/, Education for Homeless Children Act.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 4:110 (Transportation), 7:10 (Equal Educational Opportunities), 7:30 (Student Assignment and Intra-District Transfer), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students)

ADMIN. PROC.: 6:140-AP (Education of Homeless Children)

DRAFT

Instruction

Homework

Homework is part of the District's instructional program and has the overarching goal of increasing student achievement. Homework is assigned to further a student's educational development and is an application or adaptation of a classroom experience.¹ The Superintendent shall provide guidance to ensure that homework:

1. Is used to reinforce and apply previously covered concepts, principles, and skills;
2. Is not assigned for disciplinary purposes;
3. Serves as a communication link between the school and parents/guardians;
4. Encourages independent thought, self-direction, and self-discipline; and
5. Is of appropriate frequency and length, and does not become excessive, according to the teacher's best professional judgment.

Missed Homework ²

Students absent for a valid cause may make up missed homework in a reasonable timeframe per policy 7:70, Attendance and Truancy.

CROSS REF.: 7:70 (Attendance and Truancy)

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

¹ This policy's contents are at the local school board's discretion; a board should customize the list of standards for homework to reflect the district's practices. Below are two optional provisions that can be added at the end of the sample policy:

Option 1: Recognizing the importance of parental involvement in homework, the Superintendent or designee shall ensure that parents/guardians are informed of: (1) whom to contact with questions or concerns about homework assignments, and (2) methods to facilitate homework completion.

Option 2: The Superintendent or designee shall annually report to the Board on the effectiveness of homework assignments on increasing student achievement.

² Optional. This aligns with sample policy 7:70, Attendance and Truancy.

Instruction

Achievement and Awards ¹

[High school and unit districts only]

Grade Point Average, Class Rank, and Class Honor Roll

The Superintendent shall maintain a uniform process for secondary schools to calculate, on at least a yearly basis, each student's grade point average and class rank, as well as an honor roll for each class.

[All districts]

Awards and Honors

The Superintendent shall maintain a uniform process for presenting awards and honors for outstanding scholarship, achievement, and/or distinguished service in school activities in such a way as to minimize bias and promote fairness.² The Superintendent shall supervise the selection of the recipient(s).

All donations for awards, honors, and scholarships must receive the School Board's prior approval.

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

¹ This policy's contents are at the local board's discretion; a board should customize it to reflect the district's practices. [Moving away from class rank is the trend because fewer colleges consider it to be of significant importance in admissions. For a resource on the role of class rank in college admission, see www.nacacnet.org/news--publications/publications/state-of-college-admission/ and www.nassp.org/class-rank-gpa-and-grading/.](#)

² As an alternative, a board may want to list the awards and honors, such as in the following:
The School District annually presents the following awards and honors to students for outstanding scholarship and distinguished service in District activities: *[insert list]*

For high school or unit districts, a board may want to recognize a valedictorian and salutatorian, such as by inserting the following:

In addition to other awards, the Superintendent shall maintain a uniform process for identifying one or more high school senior(s) as a valedictorian(s) and ~~one as a~~ salutatorian(s).

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Students

Student and Family Privacy Rights ¹

Surveys ²

All surveys requesting personal information from students, as well as any other instrument used to collect personal information from students, must advance or relate to the District’s educational objectives as identified in ~~School Board~~ policy 6:10, *Educational Philosophy and Objectives*, or assist students’ career choices. This applies to all surveys, regardless of whether the student answering the questions can be identified ~~and regardless of~~ who created the survey.

Surveys Created by a Third Party ³

Before a school official or staff member administers or distributes a survey or evaluation created by a third party to a student, the student’s parent(s)/guardian(s) may inspect the survey or evaluation, upon their request and within a reasonable time of their request.

This section applies to every survey: (1) that is created by a person or entity other than a District official, staff member, or student, (2) regardless of whether the student answering the questions can be identified, and (3) regardless of the subject matter of the questions.

Surveys Requesting Personal Information ⁴

School officials and staff members shall not request, nor disclose, the identity of any student who completes any survey or evaluation (created by any person or entity, including the District) containing one or more of the following items:

1. Political affiliations or beliefs of the student or the student’s parent/guardian.

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¹ State or federal law requires this subject matter be covered by policy. State or federal law controls this policy’s content. The Protection of Pupil Rights Act ([PPRA](#)) requires any school district, “that receives funds under any applicable program [to] develop and adopt policies, in consultation with parents, regarding [statutory privacy rights].” 20 U.S.C. §1232h(c)(1). *Any applicable program* generally refers to any federal program administered by the U.S. Dept. of Education. 20 U.S.C. §1221(c). *Consultation with parents* is not defined; boards are advised, at minimum, to publicize the issue and request public comment during the policy’s adoption.

² This paragraph is not dictated by law. It, however, contains the principles to guide staff and should be carefully considered and re-crafted by each board. Note that ~~IASB-sample board~~ policy 6:10, *Educational Philosophy and Objectives*, is very broad and will thus justify surveys covering many subjects. However, it would prohibit the collection of information for marketing or selling (see f/n 13 of this policy); delete reference if the board wants the option of selling personal information that is collected from students, such as in the following:

A survey requesting personal information from students, as well as any other instrument used to collect personal information from students, must have a business, educational, or marketing justification.

Another alternative is to strictly restrict the subjects on which students may be surveyed, as in the following:

All surveys requesting information from students, as well as any other instrument used to collect personal information from students, must be for the purpose of monitoring the quality of the District’s educational programs or assisting students’ career choices.

³ Required by 20 U.S.C. §§1232h(c)(1)(A)(i) and 1232h(c)(2)(A)(ii).

⁴ Required by 20 U.S.C. §1232h(c)(1)(B). Consult the board attorney to review the survey or questions before administering it. Given the current political climate, attorneys in the field are voicing concern about the increase in schools and staff requesting inappropriate information from a student, e.g., the number of people and/or families living in his or her home and/or whether firearms are present in the student’s home.

2. Mental or psychological problems of the student or the student’s family.
3. Behavior or attitudes about sex.
4. Illegal, anti-social, self-incriminating, or demeaning behavior.
5. Critical appraisals of other individuals with whom students have close family relationships.
6. Legally recognized privileged or analogous relationships, such as those with lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or the student’s parent/guardian.
8. Income other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program.

The student’s parent(s)/guardian(s) may:

1. Inspect the survey or evaluation upon, and within a reasonable time of, their request,⁵ and/or
2. Refuse to allow their child to participate in the activity described above.⁶ The school shall not penalize any student whose parent(s)/guardian(s) exercised this option.

Instructional Material ⁷

A student’s parent(s)/guardian(s) may inspect, upon their request, any instructional material used as part of their child’s educational curriculum within a reasonable time of their request.

The term “instructional material” means instructional content that is provided to a student, regardless of its format, printed or representational materials, audio-visual materials, and materials in electronic or digital formats (such as materials accessible through the Internet). The term does not include academic tests or academic assessments. ⁸

Physical Exams or Screenings ⁹

No school official or staff member shall subject a student to a non-emergency, invasive physical examination or screening as a condition of school attendance. The term *invasive physical examination* means any medical examination that involves the exposure of private body parts, or any act during such examination that includes incision, insertion, or injection into the body, but does not include a hearing, vision, or scoliosis screening.

The above paragraph does not apply to any physical examination or screening that:

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⁵ 20 U.S.C. §1232h(c)(1)(C)(i).

⁶ 20 U.S.C. §1232h(c)(2)(A)(ii).

⁷ Required by 20 U.S.C. §1232h(c)(1)(C)(i).

⁸ 20 U.S.C. §1232h(c)(6)(A).

⁹ The [PPRA Protection of Pupil Rights Act](#) states that student’s parent(s)/guardian(s) may refuse to allow the student to participate in “non-emergency, invasive physical examination or screening.” 20 U.S.C. §1232h(c)(2)(A)(ii). This does not necessarily mean, however, that schools have authority to conduct invasive physical examinations or screenings of students. In order to avoid misunderstandings, the sample policy prohibits physical examinations and screenings of students as those terms are defined in the policy (and federal law).

A board that wants to retain this option must strike the first sentence and replace it with the following:

A student’s parent(s)/guardian(s) may refuse to allow the student to participate in any non-emergency, invasive physical examination or screening that is: (a) required as a condition of attendance, (b) administered by the school and scheduled by the school in advance; and (c) not necessary to protect the immediate health and safety of the student, or of other students.

1. Is permitted or required by an applicable State law, including physical examinations or screenings that are permitted without parental notification. ¹⁰
2. Is administered to a student in accordance with the Individuals with Disabilities Education Act (20 U.S.C. §1400 *et seq.*). ¹¹
3. Is administered pursuant to the District's extracurricular drug and alcohol testing program (see [pPolicy 7:240, Conduct Code for Participants in Extracurricular Activities](#)). ¹²
4. Is otherwise authorized by Board policy.

Prohibition on Selling or Marketing Students' Personal Information ~~Is Prohibited~~ ¹³

No school official or staff member shall market or sell personal information concerning students (or otherwise provide that information to others for that purpose). The term *personal information* means individually identifiable information including: (1) a student or parent's first and last name, (2) a home or other physical address (including street name and the name of the city or town), (3) a telephone number, (4) a Social Security identification number or (5) driver's license number or State identification card. ¹⁴

Unless otherwise prohibited by law, ~~The~~ above paragraph does not apply: (1) if the student's parent(s)/guardian(s) have consented; or (2) to the collection, disclosure or, use of personal information collected from students for the exclusive purpose of developing, evaluating or providing educational products or services for, or to, students or educational institutions, such as the following: ¹⁵

1. College or other postsecondary education recruitment, or military recruitment.
2. Book clubs, magazines, and programs providing access to low-cost literary products.
3. Curriculum and instructional materials used by elementary schools and secondary schools.
4. Tests and assessments to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the

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¹⁰ 20 U.S.C. §1232h(c)(4)(B)(ii).

¹¹ 20 U.S.C. §1232h(c)(5)(A)(ii).

¹² Delete if the board has not adopted a drug and alcohol testing program for extracurricular participants in 7:240, *Conduct Code for Participants in Extracurricular Activities*. Also delete reference to 7:240, *Conduct Code for Participants in Extracurricular Activities* in this policy's cross references.

¹³ The Children's Privacy Protection and Parental Empowerment Act ([CPPPEA](#)), 325 ILCS 17/, prohibits the sale of *personal information* concerning a child under the age of 16, with a few exceptions, unless the parent(s)/guardian(s) have consented. Federal law is similar but not identical. Compare 20 USC. §1232h(c)(1)(E). In order to effectuate both laws, the sample policy prohibits the sale or marketing of *personal information* unless the parents/guardians have consented.

[Compare personal information under the PPRA and CPPPEA with covered information under the Student Online Personal Protection Act \(SOPPA\) \(105 ILCS 85/\), which districts are always prohibited from selling, renting, leasing, or trading. 105 ILCS 85/26. Covered information is broadly defined as personally identifiable information of students \(or linked to students\) that is shared with an operator of a website, online service or application that is used primarily for K-12 purposes and is designed and marketed for K-12 purposes. Therefore, in cases where the covered information is collected, disclosed, or used that also meets the definition of personal information under this policy, the PPRA and CPPPEA exceptions to the prohibition on selling students' personal information may not be available. Consult the board attorney for further guidance in these situations, and see sample policy 7:345, *Use of Educational Technologies: Student Data Privacy and Security*, for more information about SOPPA requirements.](#)

¹⁴ 20 U.S.C. §1232h(c)(6)(E); [Children's Privacy Protection and Parental Empowerment Act](#) [CPPPEA](#), 325 ILCS 17/. See ¶n 7 in 7:340, *Student Records*, for a discussion about managing FOIA requests for items (1)-(3) under *personal information* in this paragraph.

¹⁵ 20 U.S.C. §1232h(c)(4)(A); 325 ILCS 17/10.

purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments.

5. The sale by students of products or services to raise funds for school-related or education-related activities.
6. Student recognition programs.

Under no circumstances may a school official or staff member provide a student's *personal information* to a business organization or financial institution that issues credit or debit cards. ¹⁶

Notification of Rights and Procedures ¹⁷

The Superintendent or designee shall notify students' parents/guardians of:

1. This policy as well as its availability upon request from the general administration office.
2. How to opt their child out of participation in activities as provided in this policy.
3. The approximate dates during the school year when a survey requesting personal information, as described above, is scheduled or expected to be scheduled. ¹⁸
4. How to request access to any survey or other material described in this policy.

This notification shall be given to parents/guardians at least annually, at the beginning of the school year, and within a reasonable period after any substantive change in this policy.

Transfer of Rights

The rights provided to parents/guardians in this policy transfer to the student when the student turns 18 years old, or is an emancipated minor. ¹⁹

LEGAL REF.: 20 U.S.C. §1232h, Protection of Pupil Rights Act.
[105 ILCS 5/10-20.38.](#)
325 ILCS 17/, Children's Privacy Protection and Parental Empowerment Act.
[105 ILCS 5/10-20.38.](#)

CROSS REF.: 2:260 (Uniform Grievance Procedure), 6:210 (Instructional Materials), 6:260 (Complaints About Curriculum, Instructional Materials, and Programs), 7:130 (Student Rights and Responsibilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:300 (Extracurricular Athletics)

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¹⁶ 105 ILCS 5/10-20.38.

¹⁷ The details in this section are specified in and required by 20 U.S.C. §1232h(c)(2). This information should be in the student handbook.

¹⁸ If the board chose to keep the option of marketing personal information received from students and/or conducting physical exams, add the following to this list as appropriate: "collection of personal information from students for marketing and physical examinations or screenings."

¹⁹ 20 U.S.C. §1232h(c)(5)(B).

Students

Administering Medicines to Students¹

Students should not take medication during school hours or during school-related activities unless it is necessary for a student's health and well-being. When a student's licensed health care provider and parent/guardian believe that it is necessary for the student to take a medication during school hours or school-related activities, the parent/guardian must request that the school dispense the medication to the child and otherwise follow the District's procedures on dispensing medication.

No School District employee shall administer to any student, or supervise a student's self-administration of, any prescription or non-prescription medication until a completed and signed *School Medication Authorization Form (SMA Form)* is submitted by the student's parent/guardian.

No student shall possess or consume any prescription or non-prescription medication on school grounds or at a school-related function other than as provided for in this policy and its implementing procedures.

Nothing in this policy shall prohibit any school employee from providing emergency assistance to students, including administering medication.

The Building Principal shall include this policy in the Student Handbook and shall provide a copy to the parents/guardians of students.²

Self-Administration of Medication

A student may possess and self-administer an epinephrine injector, e.g., EpiPen®, and/or asthma medication prescribed for use at the student's discretion, provided the student's parent/guardian has

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¹ All [boards/districts](#) must have a policy for administering medication. 105 ILCS 5/10-20.14b. State law prohibits school boards from requiring that teachers and other non-administrative school employees administer medication to students; exceptions are certificated school nurses and non-certificated registered professional nurses. 105 ILCS 5/10-22.21b, amended by P.A. 101-205, ~~eff. 1-1-20~~. [For a sample medication authorization form, see 7:270-E1, School Medication Authorization Form.](#)

[Separate from this policy, boards must also adopt a policy that addresses the prevention of anaphylaxis and a district's response to medical emergencies resulting from anaphylaxis. See sample policy 7:285, Anaphylaxis Prevention, Response, and Management Program, and its accompanying administrative procedure, 7:285-AP, Anaphylaxis Prevention, Response, and Management Program, for more information. Due to the structure of the School Code and the IASB Policy Reference Manual, policy 7:285, Anaphylaxis Prevention, Response, and Management Program, does not address the administration of epinephrine and instead refers to this policy 7:270, Administering Medicine to Students.](#)

² Each district must inform students, e.g., through homeroom discussion or loudspeaker announcement, about, and distribute to their parents/guardians, the district's policy, guidelines, and forms on administering medicines within 15 days after the beginning of each school year, or within 15 days after starting classes for a student who transfers into the district. 105 ILCS 5/10-20.14b. A comprehensive [Student Handbook](#) can provide notice to parents and students of the school's rules, extracurricular and athletic participation requirements, and other important information. The [Handbook](#) can be developed by the building principal, but should be reviewed and approved by the superintendent and board. The Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook.

completed and signed an *SMA Form*.³ The Superintendent or designee will ensure an Emergency Action Plan is developed for each self-administering student.⁴

A student may self-administer medication required under a *qualifying plan*, provided the student's parent/guardian has completed and signed an *SMA Form*.⁵ A qualifying plan means: (1) an asthma action plan, (2) an Individual Health Care Action Plan, (3) an Ill. Food Allergy Emergency Action Plan and Treatment Authorization Form, (4) a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973, or (5) a plan pursuant to the federal Individuals with Disabilities Education Act.

The District shall incur no liability, except for willful and wanton conduct, as a result of any injury arising from a student's self-administration of medication, including asthma medication or epinephrine injectors, or medication required under a qualifying plan.⁶ A student's parent/guardian must indemnify and hold harmless the District and its employees and agents, against any claims,

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³ 105 ILCS 5/22-30, amended by P.A. ~~102-413, 100-726 and 100-799~~, requires school districts to allow students to *self-administer* their prescribed asthma medication and an epinephrine injector as described. *Self-carry* means a student's ability to carry his or her prescribed asthma medication or epinephrine injector. *Self-administer* and *self-administration* mean that a student may use these two medications at his or her discretion: (1) while in school; (2) while at a school sponsored activity; (3) while under the supervision of school personnel; or (4) before or after normal school activities, such as while in before-school or after-school care on school-operated property.

⁴ 105 ILCS 5/10-22.21b(d), added by P.A. 101-205, ~~eff. 1-1-20~~. The plan must address actions to be taken if the student is unable to self-administer medication and the situations in which the school must call 911. *Id.* For plan guidance, see 7:270-AP1, *Dispensing Medication*.

⁵ 105 ILCS 5/10-22.21b, amended by P.A. 101-205, ~~eff. 1-1-20~~. A student with an asthma action plan, an Individual Health Care Action Plan, an *Illinois Food Allergy Emergency Action Plan and Treatment Authorization Form (Ill. EAP Form)*, a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973, or a plan pursuant to the federal Individuals with Disabilities Education Act may self-administer medication if the student's parent/guardian provides the school with: (1) written permission for the student's self-administration of medication, (2) written authorization from the student's physician, physician assistant, or advanced practice registered nurse for the student to self-administer the medication, and (3) the prescription label containing the name of the medication, the prescribed dosage, and the time(s) or circumstances under which the medication is to be administered. *Id.* At 5/10-22.21(c), added by P.A. 101-205, ~~eff. 1-1-20~~. This does not allow a student to self-carry unless otherwise permitted. Contact the board attorney for further guidance.

105 ILCS 5/2-3.149, repealed and replaced by 105 ILCS 5/2-3.182, added by P.A. 102-413, led ISBE to retire the 2010 publication, *Procedures for Managing Life-Threatening Food Allergies in Schools*, which included the Ill. EAP Form in an appendix. ISBE replaced the 2010 publication with the *Anaphylaxis Response Policy (2022)*, which does not include or refer to the now-retired Ill. EAP Form. 105 ILCS 5/10-22.21b, 5/22-30(b-5), and 5/22-30(b-10) have not been amended to remove or replace the Ill. EAP Form reference. It is unknown if that form will continue to be accessible on the ISBE website. See 7:285-AP, *Anaphylaxis Prevention, Response, and Management Program*, f/n 1, for more information, and consult the board attorney for guidance on the continued use of the Ill. EAP Form or use of another form to document the emergency action plan for a student at risk for anaphylaxis.

⁶ 105 ILCS 5/22-30, amended by P.A. 102-413 (asthma medication and epinephrine injectors) and 105 ILCS 5/10-22.21b, amended by P.A. 101-205, ~~eff. 1-1-20~~ (medications required by a plan listed in 105 ILCS 5/10-22.21b(c), added by P.A. 101-205, ~~eff. 1-1-20~~). 105 ILCS 5/22-30(c) requires this information to be in a notification to parents/guardians. 105 ILCS 5/10-22.21b, amended by P.A. 101-205, ~~eff. 1-1-20~~, does not specifically require this information to be in a notification to parents/guardians. However, 105 ILCS 5/10-22.21b requires parents/guardians to sign a statement that includes the district's protections from liability under 105 ILCS 5/10-22.21b; the signed acknowledgment (see f/n 7) is the notice. This policy includes the liability protection information under 105 ILCS 5/10-22.21b to also inform the community.

The storage of medication is not addressed in the applicable statutes and may not be covered as part of the district's protections from liability and hold harmless provisions. Contact the board attorney and the board's liability insurance carrier for further discussion about the district's liability and coverage in this area.

except a claim based on willful and wanton conduct, arising out of a student's self-administration of an epinephrine injector, asthma medication, and/or a medication required under a qualifying plan. ⁷

School District Supply of Undesignated Asthma Medication ⁸

The Superintendent or designee shall implement 105 ILCS 5/22-30(f) and maintain a supply of undesignated asthma medication in the name of the District and provide or administer them as necessary according to State law. *Undesignated asthma medication* means an asthma medication prescribed in the name of the District or one of its schools. A school nurse or trained personnel, as defined in State law,⁹ may administer an undesignated asthma medication to a person when they, in good faith, believe a person is having *respiratory distress*. Respiratory distress may be characterized as *mild-to-moderate* or *severe*.¹⁰ Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law. ¹¹

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

⁷ 105 ILCS 5/22-30(c) and 105 ILCS 5/10-22.21b, amended by P.A. 101-205, ~~eff. 1-1-20~~. Both statutes require parents/guardians to sign a statement: (1) acknowledging the statement from f/n ~~65~~ above; and (2) that they must indemnify and hold harmless the school district and its employees and agents against any claims, except a claim based on willful and wanton conduct, arising out of the self-administration of medication by the student. There are several methods to obtain a parent/guardian's signature for this purpose, e.g., receipt of handbook signature, or see 7:270-E1, *School Medication Authorization Form*. Discuss with the board attorney the method that works best for the district.

⁸ Optional. A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30, amended by P.A. ~~102-413-100-726~~. The law permits a district to maintain a supply of undesignated asthma medication in any secure location that is accessible before, during, and after school where a person is most at risk, including, but not limited to a classroom or the nurse's office, and use them when necessary. The P.A. 100-726 amendment requiring accessibility before, during, and after school ~~does~~ not address the logistical issues that classrooms are typically locked before and after school. Consult the board attorney about implementation issues with this phrase in the law.

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated asthma medication, implement a plan for its use, and then not doing it, as doing so may be fraught with legal liabilities. Also fraught with legal liabilities is when the district provides them, but does not have them accessible before, during, and after school where an asthmatic person is most at risk as required by 105 ILCS 5/22-30, amended by P.A. ~~102-413-100-726~~. See *In re Estate of Stewart*, 406 Ill.Dec. 345 (2nd Dist. 2016)(denying tort immunity to district, finding its response to a student's asthma attack was *willful and wanton* (which district disputed as a possible heart attack)) and *In re Estate of Stewart*, 412 Ill.Dec. 914 (Ill. 2017)(school district's appeal denied).

The superintendent is given broad authority to implement this section; however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of undesignated asthma medication in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

⁹ 105 ILCS 5/22-30(a), ~~amended by P.A. 100-726~~, defines *trained personnel* as any school employee or volunteer personnel authorized in Sections 10-22.34, 10-22.34a, and 10-22.34b of the School Code who has completed training required by 105 ILCS 5/22-30(g), ~~amended by P.A. 100-726~~, to recognize and respond to anaphylaxis, an opioid overdose, or respiratory distress. 105 ILCS 5/22-30(a), ~~amended by P.A. 100-726~~.

The Ill. State Board of Education (ISBE) must develop the training curriculum for trained personnel, and it may be conducted online or in person. *Id.* at (h), ~~amended by P.A. 102-413~~, and 23 Ill.Admin.Code §1.540(e)(3). 105 ILCS 5/22-30(h-5), 5/22-30(h), ~~amended by P.A. 102-413~~, and 5/22-30(h-10), ~~amended by P.A. 100-726~~, and 23 Ill.Admin.Code §1.540(e) list the training curriculum requirements to recognize and respond to an opioid overdose, an allergic reaction, including anaphylaxis, and respiratory distress, respectively. [See training resources, at: www.isbe.net/Pages/School-Nursing.aspx](http://www.isbe.net/Pages/School-Nursing.aspx).

¹⁰ 105 ILCS 5/22-30(a). *Respiratory distress* means the perceived or actual presence of wheezing, coughing, shortness of breath, chest tightness, breathing difficulty, or any other symptoms consistent with asthma. *Id.*

¹¹ *Id.* at (g); 23 Ill.Admin.Code §1.540(e)(~~97~~) and (~~108~~).

School District Supply of Undesignated Epinephrine Injectors ¹²

The Superintendent or designee shall implement 105 ILCS 5/22-30(f) and maintain a supply of undesignated epinephrine injectors in the name of the District and provide or administer them as necessary according to State law. *Undesignated epinephrine injector* means an epinephrine injector prescribed in the name of the District or one of its schools. A school nurse or trained personnel, as defined in State law,¹³ may administer an undesignated epinephrine injector to a person when they, in good faith, believe a person is having an anaphylactic reaction. Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law. ¹⁴

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

¹² Optional. If the board adopts this subhead, the use of undesignated epinephrine injectors must align with its anaphylaxis prevention, response, and management policy. See sample policy 7:285, *Anaphylaxis Prevention, Response, and Management Program*, at f/n 7, and its administrative procedure, 7:285-AP, *Anaphylaxis Prevention, Response, and Management Program*, at f/ns 4, 5, and 6. If the district does not maintain an undesignated supply of epinephrine, ensure that policy 7:285 and 7:285-AP do not state that it does maintain such a supply.

A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30, amended by P.A. 102-413. The law permits a district to maintain a supply of undesignated epinephrine injectors in any secure location that is accessible before, during, and after school where an allergic person is most at risk, including, but not limited to, classrooms and lunchrooms, and use them when necessary. 105 ILCS 5/22-30 requires accessibility before, during, and after school does not address the logistical issues that classrooms are typically locked before and after school. Consult the board attorney about the implementation issues with this new phrase in the law.

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated epinephrine injectors, and implement a plan for their use, and then not doing it, as doing so may be fraught with legal liabilities. Also fraught with legal liabilities is if the district provides them, but does not have them accessible before, during, and after school where an allergic person is most at risk as required by 105 ILCS 5/22-30, amended by P.A. 102-413. See In re Estate of Stewart, 406 Ill.Dec. 345 (2nd Dist. 2016)(denying tort immunity to district, finding its response to a student's asthma attack was *willful and wanton* (which district disputed as a possible heart attack)); In re Estate of Stewart, 412 Ill.Dec. 914 (Ill. 2017)(school district's appeal denied).

The superintendent is given broad authority to implement this section; however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of undesignated epinephrine injectors in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

¹³ See the discussion regarding *trained personnel*, in f/n 98, above.

¹⁴ See f/n 1140, above.

School District Supply of Undesignated Opioid Antagonists ¹⁵

The Superintendent or designee shall implement 105 ILCS 5/22-30(f) and maintain a supply of undesignated opioid antagonists in the name of the District and provide or administer them as necessary according to State law. *Opioid antagonist* means a drug that binds to opioid receptors and blocks or inhibits the effect of opioids acting on those receptors, including, but not limited to, naloxone hydrochloride or any other similarly acting drug approved by the U.S. Food and Drug Administration. *Undesignated opioid antagonist* is not defined by the School Code; for purposes of this policy it means an opioid antagonist prescribed in the name of the District or one of its schools. A school nurse or trained personnel,¹⁶ as defined in State law, may administer an undesignated opioid antagonist to a person when they, in good faith, believe a person is having an opioid overdose. Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law.¹⁷ See the website for the Ill. Dept. of Human Services for information about opioid prevention, abuse, public awareness, and a toll-free number to provide information and referral services for persons with questions concerning substance abuse treatment. ¹⁸

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¹⁵ Optional. If the board chooses to implement an undesignated opioid antagonist program, and the district employs law enforcement, consult the board attorney about whether this subhead becomes required. See Substance Use Disorder Act, 20 ILCS 301/, ~~amended by P.A.s 100-201 and 100-759.~~

For boards that choose to implement an undesignated opioid antagonists program, consult the board attorney regarding the Safe and Drug-Free School and Communities Act of 1994 (20 U.S.C. §7101(b)). It prohibits funds provided under it to be used for medical services or drug treatment or rehabilitation, except for integrated student supports, specialized instructional support services, or referral to treatment for impacted students, which may include students who are victims of, or witnesses to crime or who illegally use drugs.

A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30, ~~amended by P.A. 102-413.~~ The law permits a district to maintain a supply of undesignated opioid antagonists in any secure location where a person is at risk of an opioid overdose and use them when necessary. The consequences of informing the community that the district will obtain a prescription for a supply of opioid antagonists and implement a plan for their use, and then not doing it may be fraught with legal liabilities.

The superintendent is given broad authority to implement this section; however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of opioid antagonists in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

¹⁶ See the discussion regarding *trained personnel* in f/n ~~97~~, above.

¹⁷ See f/n ~~110~~, above.

¹⁸ Optional sentence if the board chooses to implement an undesignated opioid antagonist program as discussed in f/n ~~154~~, above. 20 ILCS 301/20-30, ~~added by P.A. 100-494,~~ mandates the Ill. Dept. of Human Services to create a website with these resources. The purpose of this sentence is to provide the community with information about a public health crisis affecting students.

School District Supply of Undesignated Glucagon¹⁹

The Superintendent or designee shall implement 105 ILCS 145/27 and maintain a supply of undesignated glucagon in the name of the District in accordance with manufacturer's instructions.

When a student's prescribed glucagon is not available or has expired, a school nurse or delegated care aide may administer undesignated glucagon only if he or she is authorized to do so by a student's diabetes care plan.

Administration of Medical Cannabis²⁰

The Compassionate Use of Medical Cannabis Program Act²¹ allows a *medical cannabis infused product* to be administered to a student by one or more of the following individuals:

1. A parent/guardian of a student who is a minor who registers with the Ill. Dept. of Public Health (IDPH) as a *designated caregiver* to administer medical cannabis to their child. A designated caregiver may also be another individual other than the student's parent/guardian. Any designated caregiver must be at least 21 years old²² and is allowed to administer a *medical cannabis infused product* to a child who is a student on the premises of his or her school or on his or her school bus if:

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¹⁹ Optional. 105 ILCS 145/27, added by P.A. 101-428, permits a district to maintain a supply of undesignated glucagon in any secure location that is immediately accessible to a school nurse or delegated care aide. A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement it.

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated glucagon, and implement a plan for their use, and then not doing it, as doing so may be fraught with legal liabilities.

The superintendent is given broad authority to implement this section; however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of undesignated glucagon in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

²⁰ 105 ILCS 5/22-33(g), ~~added by P.A. 100-660~~ (Ashley's Law), requires school boards to adopt a policy and implement it by:

1. Authorizing a parent/guardian and/or a *designated caregiver* of a student who is a *registered qualifying patient* to administer a medical cannabis infused product to that student at school or on the school bus (105 ILCS 5/22-33(b)).
2. Allowing a school nurse or administrator to administer a medical cannabis infused product to a student who is a *registered qualifying patient* while at school, a school-sponsored activity, or before/after normal school activities, including while the student is in before-school or after-school care, on school-operated property, or while being transported on a school bus (105 ILCS 5/22-33(b-5), added by 101-370, ~~eff. 1-1-20~~).
3. Authorizing a student who is a *registered qualifying patient* to self-administer a medical cannabis infused product if the self-administration takes place under the direct supervision of a school nurse or school administrator (*Id.*).

Important: If a district would lose federal funding as a result of the board adopting this policy, the board may not authorize the use of a medical cannabis infused product under *Ashley's Law* and not adopt this subsection. 105 ILCS 5/22-33(f). See f/n 25, below, and paragraph two of f/n 1 in policy 5:50, *Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition*, for more information about Congress interfering with a state's decision to implement laws governing the legalization of cannabis, and consult the board attorney about the issue of federal funding. [See also ISBE's Frequently Asked Questions, Ashley's Law, at: www.isbe.net/Documents/Medical-Cannabis-FAQ.pdf.](http://www.isbe.net/Documents/Medical-Cannabis-FAQ.pdf)

²¹ 410 ILCS 130/, amended by P.A. 101-363 ~~and scheduled to be repealed on 7-1-20~~.

²² *Id.* at 130/10(i), ~~added by P.A. 100-660~~, and 130/57(a) and (b), amended by P.A. 101-363 ~~and scheduled to be repealed on 7-1-20~~. A student under the age of 18 may have up to three designated caregivers as long as at least one is a biological parent or a legal guardian. *Id.* at 130/57(a). A student 18 years of age or older may appoint up to three designated caregivers who meet the requirements of the Compassionate Use of Medical Cannabis Program Act. *Id.* at 130/57(b).

- a. Both the student and the designated caregiver possess valid registry identification cards issued by IDPH;
 - b. Copies of the registry identification cards are provided to the District; ²³
 - c. That student's parent/guardian completed, signed, and submitted a *School Medication Authorization Form - Medical Cannabis*; and ²⁴
 - d. After administering the product to the student, the designated caregiver immediately²⁵ removes it from school premises or the school bus.
2. A properly trained school nurse or administrator, who shall be allowed to administer the *medical cannabis infused product* to the student on the premises of the child's school, at a school-sponsored activity, or before/after normal school activities, including while the student is in before-school or after-school care on school-operated property or while being transported on a school bus. ²⁶
 3. The student him or herself when the self-administration takes place under the direct supervision of a school nurse or administrator. ²⁷

Medical cannabis infused product (product) includes oils, ointments, foods, and other products that contain usable cannabis but are not smoked or vaped.²⁸ Smoking and/or vaping medical cannabis is prohibited. ²⁹

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²³ The laws are silent about copies of the cards being provided to the district. Requiring copies of the registry cards is a best practice. Consult the board attorney about any records laws implicated in requiring and maintaining copies of these registry cards.

²⁴ A completed and signed school medication authorization form is not required by *Ashley's Law* but is a best practice and consistent with this sample policy's language for other medications. See sample exhibit 7:270-E2, *School Medication Authorization Form - Medical Cannabis*.

²⁵ The word *immediately* is not in *Ashley's law*. It is added to ensure legal compliance with federal laws that could affect federal funding. For example, consider administrators who may be in the situation where a designated caregiver provides his or her child the product and then wants to volunteer in the school or greet another child in the school while carrying the product in the building, which may violate the Cannabis Control Act (720 ILCS 550/5.2). Consult the board attorney about the best term to use here, if any, as nothing in the law addresses these common scenarios that school administrators will encounter.

²⁶ 105 ILCS 5/22-33(b-5), added by P.A. 101-370, ~~eff. 1-1-20~~. A school nurse or administrator must annually complete a training curriculum to be developed by ISBE in consultation with the Ill. Dept. of Public Health prior to administering a medical cannabis infused product to a student in accordance with this section. 105 ILCS 5/22-33(f-5), added by P.A. 101-370, ~~eff. 1-1-20~~. See www.isbe.net/Pages/Health.aspx for training resources.

²⁷ *Id.* Any product administered by a school nurse or administrator, or self-administered under the supervision of a school nurse or administrator, must be stored with the school nurse at all times in a manner consistent with storage of other student medication at the school and may be accessible only by the school nurse or a school administrator. 105 ILCS 5/22-33(b-10), added by P.A. 101-370, ~~eff. 1-1-20~~.

²⁸ 410 ILCS 130/10(q). Consult the board attorney regarding the controversial issue of students using at, or bringing to school, cannabis-infused products without THC that are derived from *industrial hemp* (hemp oil or cannabidiol (CBD) oil, the naturally occurring cannabinoid constituent of cannabis). Industrial hemp is defined in the Industrial Hemp Act (IHA) as the plant *Cannabis sativa L.* and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis that has been cultivated under a license or is otherwise lawfully present in Illinois and includes any intermediate or finished product made or derived from industrial hemp. 505 ILCS 89/, ~~added by P.A. 100-1091~~. Industrial hemp is also colloquially known as *agricultural hemp*.

The product may not be administered in a manner that, in the opinion of the District or school, would create a disruption to the educational environment or cause exposure of the product to other students. A school employee shall not be required to administer the product.³⁰

Discipline of a student for being administered a product by a designated caregiver, or by a school nurse or administrator, or who self-administers a product under the direct supervision of a school nurse or administrator³¹ pursuant to this policy is prohibited. The District may not deny a student attendance at a school solely because he or she requires administration of the product during school hours.

Void Policy³²

The **School District Supply of Undesignated Asthma Medication** section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for undesignated asthma medication from a physician or advanced practice nurse licensed to practice medicine in all its branches, or (2) fill the District's prescription for undesignated school asthma medication.³³

The **School District Supply of Undesignated Epinephrine Injectors** section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for undesignated epinephrine injectors from a physician or advanced practice nurse licensed to practice medicine in all its branches, or (2) fill the District's prescription for undesignated school epinephrine injectors.³⁴

The **School District Supply of Undesignated Opioid Antagonists** section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District

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Products from industrial hemp are widely available. As a consequence, school employees may encounter the argument from a student and his or her parent/guardian that the use of hemp or CBD oil products derived from industrial hemp (containing no THC) is not a violation of Illinois law because 720 ILCS 550/43(a), amended by P.A. ~~101-593400-1091~~, states "except as otherwise provided in the Cannabis Regulation and Tax Act and the Industrial Hemp Act, it is unlawful for any person knowingly to possess cannabis." In addition, products containing hemp or CBD oil can be purchased with a prescription and without a medical marijuana card, so a parent/guardian may argue that such prescriptions should be administered at school as any other prescription medication would be. Consult the board attorney for guidance. ~~cannabis does not include industrial hemp as defined and authorized under the IHA (505 ILCS 89/, added by P.A. 100-1091).~~²⁹

²⁹ Optional sentence. 410 ILCS 130/10(q) ~~and scheduled to be repealed on July 1, 2020,~~ prohibits medical cannabis from being smoked. District administrators may find providing this information to the community helpful to enforcement of this policy.

³⁰ 105 ILCS 5/22-33(e) ~~added by P.A. 100-660~~. Consult the board attorney for guidance regarding whether a school nurse or administrator can be required to administer the product. ISBE's FAQ on Ashley's Law (see f/n 20) states that a school staff member cannot be forced to administer a medical cannabis infused product to a student because Ashley's Law does not require it.

³¹ 105 ILCS 5/22-33(d), amended by P.A. 101-370, ~~eff. 1-1-20~~.

³² Remove this section if the board does not adopt the undesignated asthma medication, the undesignated epinephrine injector, the undesignated opioid antagonist, the undesignated glucagon, or the administration of medical cannabis sections of the policy. If the board adopts one or some but not all, delete the appropriate paragraph(s) or sentence(s) in this section.

³³ Discuss with the board attorney whether the board should remove this sentence when the district reaches full implementation of this section.

³⁴ See f/n 128, above.

a prescription for opioid antagonists from a health care professional³⁵ who has been delegated prescriptive authority for opioid antagonists in accordance with Section 5-23 of the Substance Use Disorder Act, or (2) fill the District's prescription for undesignated school opioid antagonists.³⁶

The **School District Supply of Undesignated Glucagon** section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for glucagon from a qualifying prescriber,³⁷ or (2) fill the District's prescription for undesignated school glucagon.³⁸

The **Administration of Medical Cannabis** section of the policy is void and the District reserves the right not to implement it if the District or school is in danger of losing federal funding.³⁹

Administration of Undesignated Medication⁴⁰

Upon any administration of an undesignated medication permitted by State law, the Superintendent or designee(s) must ensure all notifications required by State law and administrative procedures occur.

Undesignated Medication Disclaimers

Upon implementation of this policy, the protections from liability and hold harmless provisions applicable under State law apply.⁴¹

No one, including without limitation, parents/guardians of students, should rely on the District for the availability of undesignated medication. This policy does not guarantee the availability of

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³⁵ *Health care professional* means a physician licensed to practice medicine in all its branches, a licensed physician assistant with prescriptive authority, a licensed advanced practice registered nurse with prescriptive authority, or an advanced practice registered nurse who practices in a hospital or ambulatory surgical treatment center and possesses appropriate clinical privileges in accordance with the Nurse Practice Act. 20 ILCS 301/5-23(d)(4), ~~amended by P.A.s 99-173, 99-480, 100-201, 100-513, and 100-759, eff. 1-1-19.~~

³⁶ See f/n 15 above.

³⁷ 105 ILCS 145/27, added by P.A. 101-428, provides that a physician, a physician assistant who has prescriptive authority under the Physician Assistant Practice Act of 1987 (225 ILCS 95/7.5), or an advanced practice registered nurse who has prescriptive authority under the Nurse Practice Act (225 ILCS 65-40) may prescribe undesignated glucagon in the name of the district to be maintained for use when necessary.

³⁸ See f/n 19 above.

³⁹ 105 ILCS 5/22-33(f).

⁴⁰ 105 ILCS 5/22-30, amended by P.A. ~~102-413~~~~100-799~~, and 105 ILCS 145/27, added by P.A. 101-428, details specific required notifications, which are listed in 7:270-AP2, *Checklist for District Supply of Undesignated Asthma Medication, Epinephrine Injectors, Opioid Antagonists, and/or Glucagon.*

⁴¹ 105 ILCS 5/22-30(c). The school, and its employees and agents, incur no liability, except for willful and wanton conduct, as a result of an injury to a student arising from the administration of asthma medication, epinephrine injectors, or ~~an~~ opioid antagonists (Id.), a student's self-administration of medication (105 ILCS 5/10-22.21b, added by P.A. 101-205, ~~eff. 1-1-20~~), or administration of undesignated glucagon (insofar as it would be considered part of the care of a student with diabetes, see 105 ILCS 145/45).

105 ILCS 5/22-30(c) requires the district to inform parents/guardians in writing of the protections from liability and hold harmless provisions that apply to the administration of asthma medication, epinephrine injectors, and opioid antagonists. In addition, a statement must be signed by a student's parent/guardian acknowledging the district's protections from liability and hold harmless provisions for these undesignated medications. Id. A similar acknowledgment must be signed by a student's parent/guardian for the self-administration of medication. 105 ILCS 5/10-22.21(c), added by P.A. 101-205, ~~eff. 1-1-20~~. See 7:270-E1, *School Medication Authorization Form*, for a sample acknowledgement.

undesignated medications. Students and their parents/guardians should consult their own physician regarding these medication(s).

LEGAL REF.: 105 ILCS 5/10-20.14b, 5/10-22.21b, 5/22-30, and 5/22-33.
105 ILCS 145/, Care of Students with Diabetes Act.
410 ILCS 130/, Compassionate Use of Medical Cannabis Program Act, ~~and~~
[scheduled to be repealed on July 1, 2020.](#)
720 ILCS 550/, Cannabis Control Act.
23 Ill.Admin.Code §1.540.

CROSS REF.: 7:285 ([Food Allergy Anaphylaxis Prevention, Response, and Management Program](#))

ADMIN. PROC.: 7:270-AP1 (Dispensing Medication), 7:270-AP2 (Checklist for District Supply of Undesignated Asthma Medication, Epinephrine Injectors, Opioid Antagonists, and/or Glucagon), 7:270-E1 (School Medication Authorization Form), 7:270-E2 (School Medication Authorization Form - Medical Cannabis)

DRAFT

Students

Anaphylaxis Prevention, Response, and Food Allergy Management Program¹

School attendance may increase a student's risk of exposure to allergens that could trigger anaphylaxis food allergic reaction. Students at risk for anaphylaxis benefit from a School Board policy that coordinates a planned response in the event of an anaphylactic emergency. Anaphylaxis food allergy is a severe systemic allergic reaction from exposure to allergens that is rapid in onset and can cause death. Common allergens include animal dander, fish, latex, milk, shellfish, tree nuts, eggs, insect venom, medications, peanuts, soy, and wheat. A severe allergic reaction usually occurs quickly; death has been reported to occur within minutes. An anaphylactic reaction can also occur up to one to two hours after exposure to the allergen. an adverse reaction to a food protein mediated by the immune system which immediately reacts causing the release of histamine and other inflammatory chemicals and mediators.

While it is not possible for the District to completely eliminate the risks of an anaphylactic emergency²exposure to allergens when a student is at school, an Anaphylaxis Prevention, Response, and Food Allergy Management Program using a cooperative effort among students' families, staff members, and students, health care providers, emergency medical services, and the community helps

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¹ 105 ILCS 5/2-3.182(d)49, added by P.A. 102-413, requires school boards to update or implement an anaphylactic policy by 8-17-22 (six months after the Ill. State Board of Education (ISBE) distributed its model on 2-17-22) in accordance with the model policy developed by that is based upon the joint State Board of Education (ISBE), and Ill. Dept. of Public Health (IDPH) publication titled *Guidelines for Managing Life-Threatening Food Allergies in Schools Anaphylaxis Response Policy for Illinois Schools, (ISBE Model/ADPH Guidelines)*, available at: www.isbe.net/Documents/Anaphylactic-policy.pdf. Administrative procedures referencing the *ISBE Model/ADPH Guidelines* must support this policy in order to comply with the law. See the discussion in f/n 43 below and 7:285-AP4, *Administrative Procedure-Implementing an Anaphylaxis Prevention, Response, and Management-Food Allergy Management Program* for a sample implementation procedure.

The law requires the *ISBE Model*, and in turn a district's policy based on the *ISBE Model*, to include: (a) a procedure and treatment plan, including emergency protocols and responsibilities for school nurses and other appropriate school personnel, for responding to anaphylaxis, (b) requirements for a training course for appropriate school personnel on prevention and responding to anaphylaxis, (c) a procedure and appropriate guidelines for the development of an individualized emergency health care plan for children with a food or other allergy that could result in anaphylaxis, (d) a communication plan for intake and dissemination of information provided by Illinois regarding children with a food or other allergy that could result in anaphylaxis, including a discussion of methods, treatments, and therapies to reduce the risk of allergic reactions, including anaphylaxis, (e) strategies for reducing the risk of exposure to anaphylactic causative agents, including food and other allergens, and (f) a communication plan for discussion with children who have developed adequate verbal communication and comprehension skills and with the parents or guardians of all children about foods that are safe and unsafe and about strategies to avoid exposure to unsafe food. 105 ILCS 5/2-3.182(b).

The *ISBE Model* is primarily focused on item (a). Little to no guidance for schools regarding items (b) – (f) exists in it other than to generally cite to voluminous resources made available by the Centers for Disease Control and Prevention (CDC) and National Association of School Nurses (NASN). See f/n 3, below. This policy and its implementing procedures are designed to supplement the *ISBE Model* and further lead school officials to resources regarding items (b) – (f). 105 ILCS 5/2-3.182(b)(1-6).

This legislation stemmed from data showing that the number of children being diagnosed with food allergies is increasing. Every food allergic reaction can develop into a life-threatening reaction and, even with proper treatment, can be fatal. See the *ISBE/ADPH Guidelines*, pages 7 and 8, citing Sampson, H.A., *Food Allergy, from Biology Toward Therapy, Hospital Practice*, available at: www.isbe.net/Documents/food_allergy_guidelines.pdf.

² The *ISBE Model* does not provide a specific definition for *anaphylactic emergency*, but it appears to use that term and *anaphylaxis* interchangeably.

the District reduce these risks and provide accommodations and proper treatment for anaphylacticallergie reactions.³

The Superintendent or designee shall develop and implement an Anaphylaxis Prevention, Response, and Food Allergy Management Program for the prevention and treatment of anaphylaxis that:⁴

1. Fully implements the Ill. State Board of Education (ISBE)'s model policy required by following goals established in the School Code that: (a) relates to the care and response to a person having an anaphylaxis reaction identifying students with food allergies, (b) addresses the use of epinephrine in a school setting preventing exposure to known allergens, (c) provides a full food allergy and prevention of allergen exposure plan responding to allergic reactions with prompt recognition of symptoms and treatment, and (d) aligns with 105 ILCS 5/22-30 and 23 Ill.Admin.Code §1.540. Educating and training all staff about management of students with food allergies, including administration of medication with an injector, and providing an in-service training program for staff who work with students that is conducted by a person with expertise in anaphylactic reactions and management.
2. Ensures staff members receive appropriate training, including: (a) an in-service training program for staff who work with students that is conducted by a person with expertise in anaphylactic reactions and management, and (b) training required by law for those staff

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³ This ends statement requires board work and should be discussed (what effect or impact will this district statement have on the students and the community?) and altered accordingly before board adoption. A food allergy management program should promote prevention and management of life-threatening allergic reactions. The ISBE Model provides that students at risk for anaphylaxis benefit from a policy that coordinates a planned response in the event of an anaphylactic emergency, and it emphasizes that an emergency plan should include all stakeholders. (See 105 ILCS 5/2-3.149(b) and ISBE/IDPH Guidelines, on p. 7). For more information on ends statements and governance, see IASB's *Foundational Principles of Effective Governance* at: www.iasb.com/principles_popup.cfm.

The clause "using a cooperative effort among students' families, staff members, ~~and students, health care providers and emergency medical services, and the community~~" is optional and can be removed. The purpose of the clause is to share responsibility for management among ~~the district, staff, and food allergic students and their families~~ all stakeholders.

⁴ 105 ILCS 5/10-20. To balance the requirement to implement a policy based upon the ISBE/IDPH Guidelines ISBE Model (105 ILCS 5/2-3.182(d)49(b)) with the practicalities of managing a district, this paragraph delegates the board's implementation duty to the superintendent.

Number one outlines the goals that the legislature directed ISBE and IDPH to include in the ISBE/IDPH Guidelines. (105 ILCS 5/2-3.149(a)-(c)). The in-service training program is required by 105 ILCS 5/10-22.39(e). Boards may add further expectations and include additional goals that reflect those expectations here.

Number two balances the requirements of the law with the practicalities of managing a district by referencing ISBE/IDPH Guidelines. (105 ILCS 5/2-3.149(b)). The publication is 78 pages and adopting the entire document as policy is not practical. Further, not every portion of the publication applies to every district's needs.

⁵ Number one outlines the goals that the legislature directed ISBE to include in the topics covered by the ISBE Model. 105 ILCS 5/2-3.149(a)-(c). The ISBE Model is based on the Virginia Dept. of Education Anaphylaxis Policy, available at: www.doe.virginia.gov/support/health_medical/anaphylaxis_epinephrine/, and it incorporates NASN recommendations for a comprehensive anaphylaxis school policy. See the NASN Sample Anaphylaxis Policy, at: www.nasn.org/nasn-resources/resources-by-topic/allergies-anaphylaxis. Boards may add further expectations and include additional goals that reflect those expectations here. Ensure that any additional expectations or goals align with policy 7:270, Administering Medicines to Students.

members acting as *trained personnel*, as provided in 105 ILCS 5/22-30 and 23 Ill.Admin.Code §1.540.⁶

- ~~1.3.~~ Implements and maintains a supply of undesignated epinephrine in the name of the District, in accordance with policy 7:270, *Administering Medicines to Students*.⁷
- ~~2.~~ Follows and references the applicable best practices specific to the District's needs in the Centers for Disease Control and Prevention's *Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs* and the *National Association of School Nurses Allergies and Anaphylaxis Resources/Checklists*.⁸ ~~joint State Board of Education and Ill. Dept. of Public Health publication *Guidelines for Managing Life-Threatening Food Allergies in Schools*, available at:~~
- ~~4.~~
- ~~3.5.~~ www.isbe.net/Documents/food-allergy-guidelines.pdf Provides annual notice to the parents/guardians of all students to make them aware of this policy.⁹
- ~~4.6.~~ Complies with State and federal law and is in alignment with Board policies.⁵

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⁶ Number two includes the biennial in-service training program required by 105 ILCS 5/10-22.39(e) and training required by 105 ILCS 5/22-30(g) for those staff members who will be *trained personnel*, authorized by 105 ILCS 5/22-30(b-10), to provide or administer undesignated epinephrine in specific situations. The law authorizes *school nurses* and *trained personnel* to administer undesignated epinephrine. See sample policy 5:100, *Staff Development Program* (at f/n 5 if the board does not list all training in the policy), and 7:270-AP2, *Checklist for District Supply of Undesignated Asthma Medication, Epinephrine Injectors, Opioid Antagonists, and/or Glucagon*. 105 ILCS 5/22-30(b-5) does not specifically state that staff members authorized to administer (student-specific) epinephrine under a student's specific individual plan must also complete the more rigorous training required for *trained personnel*. However, the *ISBE Model* is clear that "[o]nly trained personnel should administer epinephrine to a student believed to be having an anaphylactic reaction," and it requires each building-level administrator to identify at least two employees, in addition to the school nurse (if any), to be *trained personnel*. The more in-depth training for staff members who may administer epinephrine (whether student-specific or undesignated) is also a best practice emphasized in the *CDC Guidelines*, which is referenced in the *ISBE Model* (see f/n 8, below).

⁷ Optional. Delete number three if a board has not adopted the **School District Supply of Undesignated Epinephrine Injectors** subhead in policy 7:270, *Administering Medicine to Students*.

⁸ Number four refers to the CDC's *Voluntary Guidelines for Managing Food Allergies in Schools and Early Care and Education Programs*, at: www.cdc.gov/healthyschools/foodallergies/pdf/20_316712-A_FA_guide_508tag.pdf (*CDC Guidelines*), which is cited in the *ISBE Model* as a resource for a "full food allergy and prevention of allergen exposure plan." Adopting the entire, voluminous *CDC Guidelines* document as policy is not practical. The *CDC Guidelines* also state that not every recommendation will be appropriate or feasible for every district's needs. The *National Association of School Nurses Allergies and Anaphylaxis Resources/Checklists*, at: www.nasn.org/nasn-resources/resources-by-topic/allergies-anaphylaxis ~~http://www.nasn.org/nasn-resources/resources-by-topic/allergies-anaphylaxis~~, are also linked as a resource in the *ISBE Model*. The *ISBE Model* acknowledges that not all schools have access to school nurses or other health staff on a regular basis, and it encourages districts to take this into consideration when developing building-level plans.

⁹ Number five is required by 105 ILCS 5/2-3.182(c), added by P.A. 102-413. The notification must include contact information for parents/guardians to engage further with the district to learn more about individualized aspects of the policy. For ease of administration, districts may want to include this notification in student handbook(s). The Ill. Principal's Association (IPA) maintains a handbook service that coordinates with PRESS material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook.

Monitoring ¹⁰

Pursuant to State law and policy 2:240, *Board Policy Development*, the Board monitors this policy at least once every three years by conducting a review and reevaluation of this policy to make any necessary and appropriate revisions. The Superintendent or designee shall assist the Board with its reevaluation and assessment of this policy's outcomes and effectiveness. Any updates will reflect any necessary and appropriate revisions.

LEGAL REF.: 105 ILCS 5/2-3.182~~149~~, and 5/10-22.39(e), and 5/22-30.
23 Ill.Admin.Code §1.540.
~~*Guidelines for Managing Life Threatening Food Allergies in Schools*~~
~~(*Guidelines*)*Anaphylaxis Response Policy for Illinois Schools*, jointly published by the~~
~~Ill. State Board of Education ISBE and Ill. Dept. of Public Health.~~

CROSS REF.: 4:110 (Transportation), 4:120 (Food Services), 4:170 (Safety), 5:100 (Staff Development Program), 6:120 (Education of Children with Disabilities), 6:240 (Field Trips), 7:180 (Prevention of and Response to Bullying, Intimidation and Harassment), 7:250 (Student Support Services), 7:180 (Prevention of and Response to Bullying, Intimidation and Harassment), 7:270 (Administering Medicines to Students), 8:100 (Relations with Other Organizations and Agencies)

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¹⁰ 105 ILCS 5/2-3.182(e) provides that ISBE shall review and update its model policy at least once every three years. Although this section does not expressly state that boards must also conduct a review within this time frame, that is the logical conclusion based on a board's duty in 105 ILCS 5/10-16.7 to direct the superintendent through policy.