

Operational Services

Purchases and Contracts ¹

The Superintendent shall manage the District's purchases and contracts in accordance with State law, the standards set forth in this policy, and other applicable School Board policies.

Standards for Purchasing and Contracting

All purchases and contracts shall be entered into in accordance with applicable federal and State law. The Board Attorney shall be consulted as needed regarding the legal requirements for purchases or contracts. All contracts shall be approved or authorized by the Board.

All purchases and contracts should support a recognized District function or purpose as well as provide for good quality products and services at the lowest cost, with consideration for service, reliability, and delivery promptness, and in compliance with State law.² No purchase or contract shall be made or entered into as a result of favoritism, extravagance, fraud, or corruption.

Adoption of the annual budget authorizes the Superintendent or designee to purchase budgeted supplies, equipment, and services, provided that State law is followed. Purchases of items outside budget parameters require prior Board approval, except in an emergency.³

When presenting a contract or purchase for Board approval, the Superintendent or designee shall ensure that it complies with applicable federal and State law, including but not limited to, those specified below:

1. Supplies, materials, or work involving an expenditure in excess of \$35,000 must comply with the State law bidding procedure, 105 ILCS 5/10-20.21, unless specifically exempted.⁴

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

¹ State law controls this policy's content. 105 ILCS 5/10-20.21, amended by P.A.s 102-1101 and 103-8, eff. 1-1-24, contains bidding plus other requirements. Other laws also govern district contracts. For example, the Prevailing Wage Act requires, among other things, that a district specify in all contracts for public works that the prevailing wage rate must be paid. 820 ILCS 130/. When a district awards work to a contractor without a public bid, contract, or project specification, the district must provide the contractor with written notice on the purchase order or a separate document indicating that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work on the project. In addition, the district must notify all contractors of any rate changes by the Ill. Dept. of Labor (IDOL). 820 ILCS 130/4(f). The law allows a district to discharge this duty by including the following language in all contracts: "Any prevailing rate of wages as they are revised by the Ill. Dept. of Labor (IDOL) shall apply to this contract. You are notified that any rate changes to the prevailing wage rate are available on IDOL's official website." 820 ILCS 130/4(l). See 4:60-E, *Notice to Contractors*, for sample language.

² This end statement should be amended according to local board discretion.

³ An optional addition follows: "Notwithstanding the above, the Superintendent shall not commit to any single, non-customary purchase or expenditure, excluding personnel, of greater than \$ _____ without prior Board approval." This optional provision's intent is to provide an internal control as well as to keep the board involved when the district is making a large purchase or expenditure, e.g., copiers, computers, textbooks, or something that might not happen every year. It is intended to cover purchases/expenditures regardless of whether they were previously budgeted.

⁴ The bidding threshold increases from \$25,000 to \$35,000 on 1-1-24. 105 ILCS 5/10-20.21, amended by P.A. 103-8, eff. 1-1-24. See sample administrative procedure 4:60-AP1, *Purchases*, for bidding exemptions and the requirements for electronic bid opening. A board may set a lower bidding threshold by policy but should first seek its attorney's advice because such action may expand a board's vulnerability to a bidding challenge.

2. Construction, lease, or purchase of school buildings must comply with State law and Board policy 4:150, *Facility Management and Building Programs*.
3. Guaranteed energy savings must comply with 105 ILCS 5/19b-1 et seq.
4. Third party non-instructional services must comply with 105 ILCS 5/10-22.34c.⁵
5. Goods and services that are intended to generate revenue and other remunerations for the District in excess of \$1,000, including without limitation vending machine contracts, sports and other attire, class rings, and photographic services, must comply with 105 ILCS 5/10-20.21(b-5). The Superintendent or designee shall keep a record of: (1) each vendor, product, or service provided, (2) the actual net revenue and non-monetary remuneration from each contract or agreement, and (3) how the revenue was used and to whom the non-monetary remuneration was distributed. The Superintendent or designee shall report this information to the Board by completing the necessary forms that must be attached to the District's annual budget.⁶
6. Any contract to purchase food with a bidder or offeror must comply with 105 ILCS 5/10-20.21(b-10).⁷
7. The purchase of paper and paper products must comply with 105 ILCS 5/10-20.19c and Board policy 4:70, *Resource Conservation*.⁸
8. Each contractor with the District is bound by each of the following:
 - a. In accordance with 105 ILCS 5/10-21.9(f): (1) prohibit any of its employees who is or was found guilty of a criminal offense listed in 105 ILCS 5/10-21.9(c) and 5/21B-80(c)⁹ to have direct, daily contact at a District school or school-related activity with one or more student(s); (2) prohibit any of the contractor's employees from having direct, daily contact with one or more students if the employee was found guilty of any offense in 5/21B-80(b) (certain drug offenses) until seven years following the end of the employee's sentence for the criminal offense;¹⁰ and (3) require each of its employees who will have direct, daily contact with student(s) to cooperate during the District's fingerprint-based criminal history records check on him or her.¹¹
 - b. In accordance with 105 ILCS 5/22-94: (1) prohibit any of its employees from having *direct contact with children or students* if the contractor has not performed a sexual misconduct related employment history review (EHR) of the employee or if the District objects to the employee's assignment based on the employee's involvement in an instance of sexual misconduct as provided in 105 ILCS 5/22-94(j)(3), which the

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⁵ Concerning collective bargaining requirements, see *McLean Co. Unit Dist. 5 v. AFSCME & IELRB*, 12 N.E.3d 120 (4th Dist. 2014) (good faith bargaining on the decision to subcontract requires notice of the consideration of the subcontract before it is finalized; meeting with the union to provide an opportunity to discuss and explain the decision; providing information to the union; and giving consideration to any counterproposal the union makes).

⁶ 105 ILCS 5/10-20.21(b-5).

⁷ 105 ILCS 5/10-20.21(b-10).

⁸ 105 ILCS 5/10-20.19c.

⁹ 105 ILCS 5/10-21.9(c); 105 ILCS 5/21B-80(c).

¹⁰ *Id.*

¹¹ The implementation process is in sample administrative procedure 4:60-AP3, *Criminal History Records Check of Contractor Employees*. See sample administrative procedure 5:30-AP2, *Investigations*, for a list of offenses which disqualify an individual from having direct, daily contact with one or more students until seven years following the end of the individual's sentence for the criminal offense.

contractor is required to disclose; (2) discipline, up to and including termination or denial of employment, any employee who provides false information or willfully fails to disclose information required by the EHR; (3) maintain all records of EHRs and provide the District access to such records upon request; and (4) refrain from entering into any agreements prohibited by 105 ILCS 5/22-94(g).¹²

- c. In accordance with 105 ILCS 5/24-5: (1) concerning each new employee of a contractor that provides services to students or in schools, provide the District with evidence of physical fitness to perform the duties assigned and freedom from communicable disease; and (2) require any new or existing employee who provides services to students or in schools to complete additional health examinations as required by the District and be subject to additional health examinations, including tuberculosis screening, as required by the Ill. Dept. of Public Health rules or order of a local health official.¹³

- 9. Any pavement engineering project using a coal tar-based sealant product or high polycyclic aromatic hydrocarbon sealant product for pavement engineering-related use must comply with the Coal Tar Sealant Disclosure Act.¹⁴

- 10. Design-build contracts must comply with 105 ILCS 5/15A-1 et seq.¹⁵

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¹² 105 ILCS 5/22-94, added by P.A. 102-702. See sample administrative procedure 4:60-AP4, *Sexual Misconduct Related Employment History Review (EHR) of Contractor Employees*. For the definition of *sexual misconduct*, see 105 ILCS 5/22-85.5(c), added by P.A. 102-676, and sample policy 5:120, *Employee Ethics; Code of Professional Conduct; and Conflict of Interest*. *Direct contact with children or students* is defined as “the possibility of care, supervision, guidance, or control of children or students or routine interaction with children or students.” 105 ILCS 5/22-94(b), added by P.A. 102-702. This standard, which triggers the EHR, appears on its face to be broader than the *direct, daily contact* standard that triggers the *complete criminal history records check* in 105 ILCS 5/10-21.9(f). See sample administrative procedures 5:30-AP2, *Investigations*, 4:60-AP3, *Criminal History Records Check of Contractor Employees*, and 4:60-AP4, *Sexual Misconduct Related Employment History Review (EHR) of Contractor Employees*, for more information. For example, a contracted night custodian who may have some passing, routine interaction with students who are on campus for after-school events, but does not have direct, daily contact with students triggers an EHR but not necessarily a *complete criminal history records check*. It is less clear if the reverse scenario could arise where a *complete criminal history records check* under 105 ILCS 5/10-21.9(f) would be required but an EHR would not be required. For ease of administration, a district may wish to require contractors to undergo a *complete criminal history records check* whenever the obligation to conduct an EHR is triggered, and vice versa.

105 ILCS 5/22-94(g), added by P.A. 102-702, prohibits contractors from entering any agreement that: (1) has the effect of suppressing information concerning a pending or completed investigation in which an allegation of sexual misconduct was substantiated, (2) affects the ability of the contractor to report sexual misconduct to the appropriate authorities, or (3) requires the contractor to expunge information about allegations or findings of suspected sexual misconduct, unless an allegation is found to be false, unfounded, or unsubstantiated following an investigation.

¹³ 105 ILCS 5/24-5. P.A. 98-716 expanded the scope of 105 ILCS 5/24-5 by adding a definition of *employee* that includes contractors’ employees for whom a criminal history records check is required. Since Aug. 2014, the Ill. Dept. of Public Health (IDPH) has not required school employees to be screened for tuberculosis other than workers in child day care and preschool settings. 77 Ill.Admin.Code §696.140(a)(3). Before requesting a contractor’s employee for a health examination, contact the board attorney concerning this action’s legality under other personnel laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.).

¹⁴ 410 ILCS 170/10(b), added by P.A. 102-242.

11. Any new contract for a district-administered assessment must comply with 105 ILCS 5/10-20.85. ¹⁶

12. Purchases made with federal or State awards must comply with 2 C.F.R. Part 200 and 30 ILCS 708/, as applicable, and any terms of the award. ¹⁷

The Superintendent or designee shall: (1) execute the reporting and website posting mandates in State law concerning District contracts, and (2) monitor the discharge of contracts, contractors' performances, and the quality and value of services or products being provided. ¹⁸

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¹⁵ 105 ILCS 5/15A-1 *et seq.*, added by P.A. 103-491, eff. 1-1-24. Under a *design-build* delivery system for a construction project, a board contracts with a *design-build entity* that furnishes architecture, engineering, land surveying, public art or interpretive exhibits, and other construction services, as required for the project. It allows a single contractor to manage both the design and construction of a project, creating the potential for greater efficiency. Contrast this method with the traditional *design-bid-build* delivery method, in which a board contracts with multiple entities and utilizes a competitive bidding process for certain contractors, such as a general contractor. 105 ILCS 5/15A-1 *et seq.*, added by P.A. 103-491, eff. 1-1-24, does not impact a district's ability to use a qualification-based selection process under 50 ILCS 510/, Local Government Professional Services Act (LGPSA), to select design professionals or construction managers for design-build projects. 105 ILCS 5/15A-50. See sample policy 2:170, *Procurement of Architectural, Engineering, and Land Surveying Services*. For design-build projects, consult with the board attorney as needed to ensure the district: (1) complies with the specific procedural requirements related to requests for proposals (RFPs) and evaluation of RFP submissions for these contracts, and (2) incorporates additional criteria for requests for proposals and evaluation of proposals based on local conditions and the specific project, as permitted by the statute. Note that under 105 ILCS 5/15A-20, added by P.A. 103-491, eff. 1-1-24, a board must employ or contract with an independent design professional or public art designer (as applicable) selected under the LGPSA to assist with developing the scope and criteria for performance for a request for proposal under a design-build delivery system.

¹⁶ 105 ILCS 5/10-20.85, added by P.A. 103-393. See sample administrative procedure 4:60-API, *Purchases*, for specific requirements. A *district-administered assessment* is one that requires all student test takers at any grade level to answer the same questions, or a selection of questions from a common bank of questions. It does *not* include the observational assessment tool used to satisfy the annual kindergarten assessment required by 105 ILCS 5/2-3.64a-10 or an assessment developed by district teachers or administrators that is used to measure student progress at an attendance center. *Id.*

¹⁷ 2 C.F.R. §§200.318-200.327; 30 ILCS 708/. The Grant Accountability and Transparency Act (GATA) adopts the federal uniform guidance for all grants unless the Office of the Governor grants an exception. 30 ILCS 708/55; 44 Ill.Admin.Code §7000.60. For information about the scope of GATA as it pertains to grants administered by the Ill. State Board of Education, see www.isbe.net/gata.

¹⁸ This is an optional provision. The numerous reporting and website posting mandates are in sample exhibit 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. As an alternative to the policy's default language, a board may insert the underscored:

The Superintendent or designee shall: (1) execute the reporting and website posting mandates in State law concerning District contracts and maintain a status report for monthly presentation to the Board, and (2) monitor the discharge of contracts, contractors' performances, and the quality and value of services or products being provided.

LEGAL REF.: 2 C.F.R. Part 200.
105 ILCS 5/10-20.19c, 5/10-20.21, 5/10-20.85, 5/10-21.9, 5/10-22.34c, 5/15A-1 et seq., 5/19b-1 et seq., 5/22-94, and 5/24-5.
30 ILCS 708/, Grant Accountability and Transparency Act.
410 ILCS 170/, Coal Tar Sealant Disclosure Act.
820 ILCS 130/, Prevailing Wage Act.

CROSS REF.: 2:100 (Board Member Conflict of Interest), 4:70 (Resource Conservation), 4:150 (Facility Management and Building Programs), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:90 (Abused and Neglected Child Reporting)

Operational Services

Administrative Procedure - Purchases

The Board Attorney should be consulted, as needed, regarding the legal requirements presented by this administrative procedure as well as before a contract is presented to the Board. ¹

Requirements for Purchases and Contracts

- A. Each of the following requirements describes the type of purchase and/or contract to which it applies; requirements in Sections B and C may also apply to a specific purchase or contract.
 1. All purchases of goods or services must be made through the use of contracts or purchase orders, except for those purchases made from petty cash funds or the Imprest Fund, or as otherwise specifically authorized by the Superintendent.
 2. Ill. Use Tax Act compliance (105 ILCS 5/10-20.21(b) and 35 ILCS 105/):
 - a. Persons bidding for and awarded a contract, and all affiliates of the person, must collect and remit Ill. Use Tax on all sales of tangible personal property into the State of Illinois in accordance with the provision of the Ill. Use Tax Act.
 - b. All bids and contracts must include: (1) a certification that the bidder or contractor is not barred from bidding for or entering into a contract, and (2) an acknowledgment that the Board may declare the contract void if the certification is false.
 3. All entities seeking to enter into a contract with the District must provide written certification to the District that it will provide a drug free workplace by complying with the Ill. Drug Free Workplace Act, 30 ILCS 580/. All contractors must comply with the notification mandates and other requirements in the Ill. Drug Free Workplace Act. "Contractor" is defined in the Ill. Drug Free Workplace Act as "a corporation, partnership, or other entity with 25 or more employees at the time of letting the contract, or a department, division, or unit thereof, directly responsible for the specific performance under a contract of \$5,000 or more."
 4. Before soliciting bids or awarding a contract for supplies, materials, equipment, or services, a certified education purchasing contract that is already available through a State education purchasing entity (as defined in the Education Purchasing Program, 105 ILCS 5/28A), may be considered as a bid. 105 ILCS 5/10-20.21(d).
 5. All contracts must include provisions required by State or federal law, as applicable. Topics commonly requiring a provision include equal opportunity employment, prevailing wage, minimum wage, and performance bond. ²
 6. The procurement of architectural, engineering, and land surveying services is governed by the Local Government Professional Services Selection Act, 50 ILCS 510/, implemented by 2:170-AP, *Qualification Based Selection*.

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¹ Many legal problems will be avoided by early and frequent consultation with the board attorney. A board cannot use its failure to follow proper bidding or contracting procedures to later avoid payment to contractors or vendors that perform a contract in good faith. *Restore Construction Co., Inc. v. Bd. of Educ. of Proviso Twp. High Sch. Dist. 209*, 444 Ill.Dec. 663 (Ill. 2020).

² For contract provisions required for non-federal entity contracts under federal awards and State awards governed by the Grant Accountability and Transparency Act (30 ILCS 708/), see Appendix II to 2 C.F.R. Part 200, available at: www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200?toc=1.

7. A list must be posted on the District's website, if any, of all contracts in excess of \$25,000 and any contract with an exclusive bargaining representative. 105 ILCS 5/10-20.44(b).
8. Each contractor with the District must comply with 105 ILCS 5/10-21.9(f) and: (a) not allow any of its employees to have direct, daily contact with one or more students if the employee was found guilty of any offense listed in 105 ILCS 5/10-21.9(c) or 5/21B-80(c)³; (b) prohibit any of its employees from having direct, daily contact with one or more students if the employee was found guilty of any offense in 5/21B-80(b) (certain drug offenses) until seven years following the end of the employee's sentence for the criminal offense; (c) require each of its employees who will have direct, daily contact with one or more student(s) to cooperate during the District's fingerprint-based criminal history records check on him or her; and (d) reimburse the District for the cost of the fingerprint-based criminal history records check that the District obtains on each employee of a contractor who will have direct, daily contact with a student(s). See 4:60-AP3, *Criminal History Records Check of Contractor Employees*.
9. For each position involving *direct contact with children or students*,⁴ each contractor must perform sexual misconduct related employment history reviews (EHRs) of its employees as required by 105 ILCS 5/22-94, added by P.A. 102-702, and: (a) prohibit any of its employees from having direct contact with children or students if the contractor has not performed an EHR; (b) discipline, up to and including termination or denial of employment, any employee who provides false information or willfully fails to disclose information required by an EHR, and prohibit any such employee from having direct contact with children or students⁵; (c) immediately inform the District of any instances of sexual misconduct involving an employee as provided in 105 ILCS 5/22-94(j)(3); (d) prohibit any of its employees from having direct contact with children or students if the District objects to the employee's assignment after being informed of an instance of sexual misconduct; (e) maintain all records of EHRs and provide copies of such records upon the District's request; and (f) not enter into any agreements prohibited by 105 ILCS 5/22-94(g).⁶ See 4:60-AP4, *Sexual Misconduct Related Employment History Review (EHR) of Contractor Employees*.
10. Each contractor with the District must comply with 105 ILCS 5/24-5 and: (a) concerning each new employee who will provide services to students or in schools, provide the District with evidence of physical fitness to perform the duties assigned and freedom from communicable disease; and (b) require any new or existing employee who provides services to students or in schools to complete additional health examinations as required by the

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³ 105 ILCS 5/10-21.9(c); 105 ILCS 5/21B-80(c).

⁴ See sample policy 4:60, *Purchases and Contracts*, at f/n 12, for the definition of *direct contact with children or students* and its distinction from *direct, daily contact*, which requires a *complete criminal history records check*.

⁵ The law requires contractors to discipline employees who provide false information or willfully fail to disclose information required by a sexual misconduct related employment history review (EHR), but it does not specifically require contractors to prohibit such employees from having direct contact with children or students. 105 ILCS 5/22-94(d), added by P.A. 102-702. This procedure prohibits contractors who have not provided the required EHR information from having direct contact with students as a best practice.

⁶ See sample policy 4:60, *Purchases and Contracts*, at f/n 12, for more information about the types of agreements that are prohibited by 105 ILCS 5/22-94(g), added by P.A. 102-702.

District and be subject to additional health examinations, including tuberculosis screening, as required by the Ill. Dept. of Public Health rules or order of a local health official.⁷

11. Any contract to purchase food with a bidder or offeror must comply with 105 ILCS 5/10-20.21(b-10) (food donations).⁸
 12. Any pavement engineering project using a coal tar-based sealant product or high polycyclic aromatic hydrocarbon sealant product for pavement engineering-related use must comply with the Coal Tar Sealant Disclosure Act by (a) requesting a bid with an alternative for asphalt-based or latex-based sealant product, and (b) considering whether an asphalt-based or latex-based sealant product should be used for the project based upon costs and life cycle costs that regard preserving pavements, product warranties, and the benefits to public health and safety.⁹
 13. Guaranteed energy savings contracts must comply with 105 ILCS 5/19b-1 et seq.¹⁰
 14. Design-build contracts must comply with 105 ILCS 5/15A-1 et seq.¹⁰
 15. Before the Board approves a new contract for a district-administered assessment: (a) the Superintendent or designee must substantially present the terms of the proposal at a regular board meeting, (b) the public must be afforded the opportunity to comment on the proposal at the meeting, and (c) the Board must hold a public vote on the contract at the meeting. The Superintendent or designee shall ensure the assessment is presented in a manner such that the assessment tool and any other intellectual property of the publisher is not able to be widely disseminated to the public.¹¹
- B. To the extent feasible, the following govern all purchases and/or the award of contracts for supplies, materials, or work, and/or contracts with private carriers for transporting students, involving: (a) an expenditure of \$35,000 or less, or (b) in an emergency, an expenditure in excess of \$35,000, provided such expenditure is approved by three-quarters of the Board. See 105 ILCS 5/10-20.21(a)(xiv) (3/4s of the members of the Board must approve an emergency expenditure in excess of \$35,000 when the bidding process is not used) and 5/29-6.1, amended by P.A. 103-460 (time limitations for transportation contracts).
1. Telephone quotations, verbal quotations, or catalog prices are used to purchase materials that are needed urgently, or small quantity orders.
 2. Written quotations are used to purchase materials or services when time requirements allow. Whenever possible, quotations should be received from at least two competitors. The

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⁷ 105 ILCS 5/24-5. Since 2014, the Ill. Dept. of Public Health (IDPH) has only required school employees in daycare and preschool settings to be screened for tuberculosis. 77 Ill.Admin.Code §696.140(a)(3). Consult the board attorney before requesting a contractor's employee to complete a health examination, to ensure it is legal under other personnel laws, including the Americans with Disabilities Act of 1990 (42 U.S.C. §12101 et seq.).

⁸ 105 ILCS 5/10-20.21(b-10).

⁹ 410 ILCS 170/10(b), added by P.A. 102-242. See the IDPH's *Compliance With the Coal Tar Sealant Disclosure Act: Guidance for Public Schools and Licensed Day Care Facilities* (Jan. 2023), available at: www.dph.illinois.gov/content/dam/soi/en/web/idph/resources/topics-services/environmental-health-protection/toxicology/eh-factsheet-coaltarsealant-header.pdf.

¹⁰ See sample policy 4:60, *Purchases and Contracts*, at f/n 15, for more information regarding the *design-build* delivery method.

¹¹ 105 ILCS 5/10-20.85, added by P.A. 103-393. To protect a publisher's intellectual property rights and the validity of an assessment, districts are required to include technical and procedural safeguards in their review to ensure materials are not widely disseminated to the general public. Id. For example, a district may provide a general description of the proposed assessment in board packet materials and at the board meeting, without including the actual content of the assessment tool or its accompanying copyrighted materials.

Superintendent or designee may negotiate with vendors at any time, including after receiving quotations.

C. The following govern all purchases and/or the award of contracts involving an expenditure in excess of \$35,000 for supplies and materials or work. 105 ILCS 5/10-20.21(a).¹²

1. Contracts are awarded to the lowest responsible bidder, considering conformity with specifications, terms of delivery, quality and serviceability, except contracts or purchases for:
 - a. Services of individuals possessing a high degree of professional skill where the ability or fitness of the individual plays an important part;
 - b. Printing of finance committee reports and departmental reports;
 - c. Printing or engraving of bonds, tax warrants, and other evidences of indebtedness;
 - d. Perishable foods and perishable beverages;
 - e. Materials and work that have been awarded to the lowest responsible bidder after due advertisement, but due to unforeseen revisions, not the fault of the contractor for materials and work, must be revised causing expenditures not in excess of 10% of the contract price;
 - f. Maintenance or servicing of, or provision of repair parts for, equipment which are made with the manufacturer or authorized service agent of that equipment where the provision of parts, maintenance, or servicing can best be performed by the manufacturer or authorized service agent;
 - g. Use, purchase, delivery, movement, or installation of data processing equipment, software, or services and telecommunications and interconnect equipment, software, and services;
 - h. Duplicating machines and supplies;
 - i. Fuel, including diesel, gasoline, oil, aviation, natural gas, or propane, lubricants, or other petroleum products;
 - j. Equipment previously owned by some entity other than the District itself;
 - k. Repair, maintenance, remodeling, renovation, or construction, or a single project involving an expenditure not to exceed \$50,000 and not involving a change or increase in the size, type, or extent of an existing facility;
 - l. Goods or services procured from another governmental agency;
 - m. Goods or services that are economically procurable from only one source, such as for the purchase of magazines, books, periodicals, pamphlets and reports, and for utility services such as water, light, heat, telephone, or telegraph;¹³
 - n. Emergency expenditures when such an emergency expenditure is approved by three-quarters of the members of the Board;
 - o. Goods procured through an education master contract, as defined in the Education Purchasing Program, 105 ILCS 5/28A; and
 - p. Providing for the transportation of students, which contracts must be advertised in the same manner as competitive bids and awarded by first considering the bidder(s) most able to provide safety and comfort for the students, stability of service, and any other factors set forth in the request for proposal regarding quality of service, and then price.

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¹² 105 ILCS 5/10-20.21(a), amended by P.A.s 102-1101 and 103-8, eff. 1-1-24.

¹³ See Tarsitano v. Twp. H.S. Dist. No. 211, 385 Ill.App.3d 868 (1st Dist. 2008)(holding that school districts may enter into contracts for utility services, such as “water, light, heat, telephone or telegraph,” without using the competitive bidding process).

- q. Goods, services, or management in the operation of a school's food service, including a school that participates in any of the U.S. Dept. of Agriculture's (USDA) child nutrition programs if a good faith effort is made on behalf of the District to give preference to contracts that: (a) procure food that promotes the health and well-being of students, in compliance with USDA nutrition standards for school meals, and contracts should also promote the production of scratch-made, minimally processed foods; (b) give a preference to State or regional suppliers that source local food products; (c) utilize producers that adopt hormone and pest management practices recommended by the USDA; (d) give a preference to food suppliers that value animal welfare; and (e) increase opportunities for businesses owned and operated by minorities, women, or persons with disabilities.

When this exemption applies, the bidder shall submit to the District at the time of the bid, to the best of the bidder's ability, and annually thereafter during the term of the contract, the food supplier data required in this Section q. The food supplier data shall also include the name and address of each supplier, distributor, processor, and producer involved in the provision of the products that the bidder is to supply.

2. Competitive bidding process:

- a. An invitation for bids is advertised, where possible, by public notice at least 10 days before the bid date in a newspaper published in the District, or if no newspaper is published in the District, in a newspaper of general circulation in the area of the District. 105 ILCS 5/10-20.21(a).
- b. The following information should be included in the advertisement for bids:
- A description of the materials, supplies, or work involved;
 - Completion or delivery date requirements;
 - Requirements for bids, bonds, and/or deposits;
 - Requirements for performance, labor, and material payment bonds;
 - Date, time, and place of the bid opening;
 - The approximate time period between the opening of bids and the award of the contract; and
 - Any other useful information.
- c. If specifications are available, the advertisement for bids describes where they may be obtained and/or inspected.
- d. All bids must be sealed by the bidder. 105 ILCS 5/10-20.21(a).
- e. A Board member or District employee opens the bids at a public bid opening at which time the contents are announced. 105 ILCS 5/10-20.21(a). Bids may be communicated, accepted, and opened electronically. The following safeguards apply to an electronic bid opening (105 ILCS 5/10-20.21(a)):
- On the date and time of a bid opening, the primary person conducting the electronic bid process shall log onto a specified database using a unique username and password previously assigned to the bidder to allow access to the bidder's specific bid project number.
 - The specified electronic database must be on a network that: (i) is in a secure environment behind a firewall; (ii) has specific encryption tools; (iii) maintains specific intrusion detection systems; (iv) has redundant systems architecture with data storage back-up, whether by compact disc or tape; and (v) maintains a disaster recovery plan.
- f. Each bidder is given at least three days' notice of the time and place of the bid opening. 105 ILCS 5/10-20.21(a).

- g. Conduct that promotes deception and collusion during the bidding process is prohibited and may violate the Ill. Criminal Code, 720 ILCS 5/33E-1 et seq. Examples include interference with public contracting, bid-rigging, and acquisition or disclosure of bidding information by a public official.
- 3. Following the opening of bids, the Superintendent (and Board Attorney, if needed) determines the lowest responsible bidder and verifies the bidders' qualifications. Contracts are awarded at a properly called open meeting of the Board. If the Superintendent recommends a bidder other than the lowest bidder, the Superintendent must provide the Board with the factual basis for the recommendation in writing. The Board, if it accepts a bid from a bidder other than the lowest, records the factual basis for its decision in its minutes. A contract arises only when the Board votes to accept a bid, although written notice of the award will later be given to the successful bidder.
- 4. Notwithstanding the foregoing, the District is relieved from bidding when making joint purchases with other public entities in compliance with the Governmental Joint Purchasing Act. 30 ILCS 525/.

LEGAL REF.: 105 ILCS 5/10-20.21, 5/10-20.44, 5/10-20.85, 5/10-21.9, 5/19A-1 et seq., 5/21B-80, 5/22-94, and 5/24-5.
30 ILCS 580/, Ill. Drug Free Workplace Act.
35 ILCS 105/, Ill. Use Tax Act.
50 ILCS 510/, Local Government Professional Services Selection Act.
410 ILCS 170/10, Coal Tar Sealant Disclosure Act.

Operational Services

Administrative Procedure - Fraud, Waste, and Abuse Awareness Program

The Grant Accountability and Transparency Act (GATA) (30 ILCS 708/) and federal regulations (2 C.F.R. §200.113) require grant fund recipients to timely disclose, in writing, all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal awarding agency or pass-through entity, e.g., Ill. State Board of Education (ISBE).

In alignment with best practices contained in ISBE's *Fiscal Procedures Handbook*, the District has a Fraud, Waste, and Abuse Awareness Program, which includes employee reporting procedures for suspected fraud, waste, or abuse. The District will take all appropriate measures to deter fraud, waste, and abuse.

Reporting

The District encourages all District employees to be vigilant and report suspicions of fraud, waste, or abuse. Employees who make good faith reports of suspected violations of law, public corruption or wrongdoing are protected from retaliation by the provisions of the Ill. Whistleblower Act (740 ILCS 174/). See the chart below for details on how to make a report.

Enforcement

Staff members found to have engaged in fraud, waste, or abuse will be disciplined, up to and including discharge. The District will also seek to recover any wrongfully obtained assets from the employee.

Definitions¹

Fraud is defined as: (1) fraudulent financial reporting, (2) misappropriation of assets, and/or (3) corruption (bribery and other illegal acts). Examples of *fraud* include:

- Embezzlement, e.g., theft of cash, use of entity credit card or accounts payable systems to purchase personal items
- Collusion with others to circumvent internal controls
- Forgery or alteration of documents, e.g., checks, time cards, receipts, contracts, purchase orders, expense reimbursement paperwork, student bills, electronic files, bids, or other financial documents
- Fraudulent reporting of expenditures or other District financial information
- Misappropriation or misuse of resources, e.g., cash, securities, inventory, facilities, equipment, services, supplies, or other assets
- Impropriety in the handling or reporting of cash or financial transactions
- Unless properly authorized, accepting or seeking anything of material value from contractors, vendors, or persons providing services or materials
- Authorization or receipt of payment for goods not received or services not performed, e.g., payments to fictitious employees or vendors

The footnotes should be removed before the material is used.

¹ The definitions of *fraud*, *waste*, and *abuse* in this exhibit are based on those in the *Standards for Internal Control in the Federal Government* issued by the Comptroller General of the United States (September 2014). See sample policy 4:80, *Accounting and Audits*, at f/n 9 for further discussion of these standards, which have been endorsed by ISBE in its own GATA guidance.

- Submitting multiple vouchers for the same expense reimbursement
- Using the District's tax exempt status for purchase of personal items
- Authorization or receipt of unearned wages or benefits
- Personal use of District property in commercial business activities
- Identity theft
- Conflict of interest or other ethics violations
- Destruction, removal, or inappropriate use of records, buildings, furniture, fixtures, or equipment
- Any similar or related irregularity to those listed

Waste is the act of using or expending resources carelessly, extravagantly, or to no purpose.

Abuse is behavior that is deficient or improper compared to the behavior that a prudent person would consider reasonable and necessary operational practice given the facts and circumstances.

The terms *fraud*, *waste*, and *abuse* are not mutually exclusive; certain conduct may constitute fraud, waste, and/or abuse.

Roles, Responsibilities, and Reporting Procedures

Actor	Action
Any Staff Member	<p>Staff members who suspect fraud, waste, and/or abuse should do the following:</p> <ol style="list-style-type: none"> 1. Make an oral or written report to the Superintendent that describes the factual basis of the suspicion, including any employees involved, a description of the alleged misconduct, and any supporting evidence. Oral reports shall be followed up in writing by the staff member or Superintendent. 2. If the staff member does not feel comfortable identifying himself/herself in making a report, the employee may deliver the report anonymously to the attention of the Superintendent or make an anonymous call to the Superintendent.² 3. If the report concerns alleged misconduct by the Superintendent, the report may be either be made to a Complaint Manager identified in Board Policy 2:260, <i>Uniform Grievance Procedure</i>, who will notify the Board President of the report, or directly to the Board President. 4. If the reporting staff member has evidence of fraud, waste, and/or abuse, he/she must preserve the evidence and provide it to the Superintendent or designee (or designated Complaint Manager or Board President, if the report concerns the Superintendent) charged with investigating the suspected fraud, waste, or abuse.
Superintendent and/or Designee (or Complaint Manager/Board President, for	Manages actual or suspected fraud, waste, or abuse in the District. With respect to any investigation, the Superintendent and/or designee (or Complaint Manager/Board President, for

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² Other options for anonymous reporting may include setting up a separate *fraud hotline* at the District or allowing for anonymous reports to be submitted through the District's website.

Actor	Action
cases concerning the Superintendent)	<p>cases concerning the Superintendent) shall:</p> <ol style="list-style-type: none"> 1. Ensure all reported instances of fraud, waste, or abuse are investigated by the District, and, if appropriate, reported to the proper authorities for further investigation and potential prosecution. 2. Consult with the board attorney as needed regarding any investigation. 3. Keep the Board informed of any ongoing investigations. 4. Ensure the District cooperates with law enforcement in any criminal fraud investigations. 5. Make all reasonable efforts to ensure the preservation of evidence relevant to an investigation. 6. Effectuate (or recommend to the Board) discipline of employees who engage in fraud, waste, or abuse in accordance with Board policies and any applicable collective bargaining agreement(s). 7. Manage communications with the media regarding investigations, as needed. 8. Manage District efforts to seek recovery of wrongfully obtained assets, as appropriate.
Superintendent and/or Designee	<ol style="list-style-type: none"> 1. Manage annual communication of the District's Fraud, Waste, and Abuse Awareness Program to staff and grant sub-recipients/subcontractors, including how employees should report suspected fraud, waste, or abuse. 2. Manage ethics and standards of conduct training for all District employees.³ 3. Periodically review the District's Fraud, Waste, and Abuse Awareness Program and related reporting procedures.

The footnotes should be removed before the material is used.

³ See sample policy 5:120, *Employee Ethics; Code of Professional Conduct; and Conflict of Interest* and sample administrative procedure 5:120-AP2, *Employee Conduct Standards*, for guidance regarding the possible content of such training. The School Code requires in-service training for teachers, administrators, and school support personnel who work with students on educator ethics, teacher-student conduct, and school employee-student conduct within six months of employment and at least once every five years thereafter. 105 ILCS 5/10-22.39(b), amended by P.A. 103-542, eff. 1-1-24 and operative 7-1-24 and (b-35), added by P.A. 103-542, eff. 1-1-24 and operative 7-1-24. However, the GATA *Fiscal and Administrative Internal Controls Questionnaire* (ICQ), which is annually administered to grantees statewide, may ask if ethics and standards of conduct training is conducted at employee orientation, annually, or both. Districts should consult with their auditors and/or board attorneys for further guidance regarding such training.

Operational Services

Student Activity and Fiduciary Funds ¹

The School Board, upon the Superintendent or designee's recommendation, establishes student activity funds to be managed by student organizations under the guidance and direction of a staff member for educational, recreational, or cultural purposes.² The Board, upon the Superintendent or designee's recommendation, also establishes fiduciary funds to be supervised by the Superintendent or designee. The District has custodial responsibilities for fiduciary funds but no direct involvement in the management of such funds.³

Student Activity Funds

The Superintendent or designee shall be responsible for supervising student activity funds in accordance with Board policy, 4:80, *Accounting and Audits*; State law; and the Ill. State Board of Education (ISBE) rules for student activity funds. The Board will appoint a treasurer for each fund to serve as the fund's sole custodian and be bonded in accordance with the School Code.⁴ The treasurer shall have all of the responsibilities specific to the treasurer listed in ISBE rules for school activity funds, including the authority to make loans between activity funds.⁵

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

¹ State law controls this policy's content. See 105 ILCS 5/10-20.19 and 23 Ill.Admin.Code §§100.80, 100.85. Due to their decentralized nature, student activity funds have historically been an area ripe for fraud, waste, and abuse. This policy supports a board member's fulfillment of his or her fiduciary duty and oath to protect the assets of the district by directing the proper maintenance and control of student activity and fiduciary funds. 105 ILCS 5/10-16.5; see sample policy 2:80, *Board Member Oath and Conduct*. Adoption of this policy also aligns with mandatory board member training on fiduciary and financial oversight responsibilities. 105 ILCS 5/10-16a(b).

ISBE's rules in Part 125 (Student Activity Funds and Convenience Accounts) were in effect only through 6-30-08 after which they were replaced by Part 100. The rules in Part 100 do not provide for *convenience accounts*. The rules in Part 100 were subsequently amended to recognize *fiduciary funds* separately from *student activity funds* in response to *Governmental Accounting Standards Board Statement No. 84*, available at: www.gasb.org. Sample policy, 7:325, *Student Fundraising Activities*, contains the elements required by State law for a policy on student fundraising activities.

² Student activity funds are established to account for money used to support the activities of student organizations and clubs, e.g., homeroom, yearbook, class year, choral or band group, class projects, student clubs, student council, and student-sponsored bookstore. 23 Ill.Admin.Code §100.20. Student activity funds are under the school board's control, giving it a fiduciary responsibility to safeguard them along with district assets. In contrast to *fiduciary funds* (see f/n 7, below), the board, superintendent, or other district employees have direct involvement in how *student activity funds* are spent or attained. And, unlike fiduciary funds, student activity funds must be reported as part of a district's Educational Fund for its annual financial reporting and budget, in accordance with *Governmental Accounting Standards Board Statement No. 84*. 23 Ill.Admin.Code §§100.80(e), 100.85.

³ See f/n 7, below.

⁴ 105 ILCS 5/8-2, amended by P.A. 103-49. A board's insurance carrier can assist the board with obtaining bonds for these individuals.

⁵ See 23 Ill.Admin.Code §100.80(c) for the treasurer's duties. ISBE's rule permits the activity fund treasurer to make loans between funds "if and as authorized by the board's policy." 23 Ill.Admin.Code §100.80. A board that does not want to allow loans between activity funds should choose one of these alternatives:

Alternative 1: The treasurer shall have all of the authority and responsibilities specific to the treasurer listed in the Illinois State Board of Education rules for school activity funds, except that the treasurer is not authorized to make loans between activity funds.

Unless otherwise instructed by the Board, a student activity fund's balance will carry over to the next fiscal year. An account containing student activity funds that is inactive for 12 consecutive months shall be closed and its funds transferred to another student activity fund or authorized fund with a similar purpose.⁶

Fiduciary Funds⁷

The Superintendent or designee shall be responsible for supervising fiduciary funds in accordance with Board policy 4:80, *Accounting and Audits*; State law; and ISBE rules for fiduciary funds. The Board will appoint a treasurer for each fund to serve as the fund's sole custodian and be bonded in accordance with the School Code.⁸ The treasurer shall have all of the responsibilities specific to the treasurer listed in the ISBE rules for fiduciary funds.⁹

LEGAL REF.: 105 ILCS 5/8-2 and 5/10-20.19.
23 Ill.Admin.Code §§100.20, 100.80, and 100.85.

CROSS REF.: 4:80 (Accounting and Audits), 7:325 (Student Fundraising Activities)

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Alternative 2: The treasurer shall have all of the authority and responsibilities specific to the treasurer listed in the Illinois State Board of Education rules for school activity funds, except that the treasurer must have the Board's approval before making a loan between activity funds.

⁶ The authority for this paragraph's first sentence is 23 Ill.Admin.Code §100.80(c)(7); the second sentence is up to the local board's discretion. The following option may be inserted after the first sentence: "However, money remaining in any Senior Class fund after graduation will automatically transfer to the next year's class."

⁷ Fiduciary funds are funds "received from an independent, outside source in which the school board is acting in an administrative capacity." 23 Ill.Admin.Code §100.20, e.g., outside, independent scholarship funds in which the district has no authority to decide how the funds are attained or awarded. *Id.* Unlike student activity funds, where "[t]he school board, superintendent, or district employees have direct involvement with the decisions of how the funds are spent or attained," a district has no control over how fiduciary funds are spent or raised. 23 Ill.Admin.Code §§100.20, 100.80, and 100.85. See 23 Ill.Admin.Code §100.85 for the specific characteristics and permitted activities of a fiduciary fund. Boards must take a number of specific actions for fiduciary funds that are delegated to the superintendent or designee in this policy and align with IASB's *Foundational Principles of Effective Governance*, at www.iasb.com/conference-training-and-events/training/training-resources/foundational-principles-of-effective-governance/. 23 Ill.Admin.Code §100.85(b). Boards should consult their local auditors for guidance on whether a particular fund should be classified as a student activity fund or fiduciary fund.

⁸ See f/n 4, above.

⁹ See 23 Ill.Admin.Code §100.85(d) for the treasurer's duties.

Operational Services

Free and Reduced-Price Food Services ¹

Notice

The Superintendent shall be responsible for implementing the District's free and reduced-price food services policy and all applicable programs. ^{2 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. A policy on eligibility for free and reduced-price meals is required by 7 C.F.R. §245.10 for districts participating in the National School Lunch or Breakfast Programs. See f/n 2 below for more information about programs.

² Every public school must have a free lunch program. School Breakfast and Lunch Program Act, 105 ILCS 125/.

Each school where at least 40% or more of the students are eligible for free or reduced-price lunches must operate a school breakfast program. Childhood Hunger Relief Act, 105 ILCS 126/15. A school district may opt-out if the expense reimbursement would not fully cover the costs of implementing and operating the breakfast program. To do so, the district must petition its regional superintendent by February 15. The regional superintendent, after a public hearing, and by March 15, informs the district of his or her decision. If the regional superintendent does not grant an exemption, the district must implement a school breakfast program by the first student attendance day of the next school year. However, the school district or a resident of the school district may appeal the regional superintendent's decision to the State Superintendent of Education.

School districts must, by February 15, promulgate a plan to serve breakfast and/or lunch at each school where 50% or more of the students are eligible for free or reduced-price school meals *and* have a summer school program operating during the summer months. 105 ILCS 126/20. School districts must implement these programs every summer as long as the school district has a school or schools that meet the criteria. If a school building with a 50% or greater free and reduced percentage does not operate a summer school program, the school district shall make information available regarding the number of children in the school eligible for free or reduced-price school meals upon request by a non-profit organization. A school district may utilize an *opt-out* provision if documentation shows the expense reimbursement would not fully cover the costs of implementing and operating a program. To do so, the district must petition its regional superintendent of schools by January 15. The regional superintendent, after a public hearing, and by March 1, informs the district of his or her decision. If the regional superintendent does not grant an exemption, the district must implement and operate the summer food program the summer following the current school year. However, the school district or a resident of the school district may appeal the regional superintendent's decision to the State Superintendent of Education who shall hear appeals and make a final decision no later than April 1. Resources for promulgating a plan for a summer breakfast or lunch (or both) food service program are available on ISBE's website at: www.isbe.net/Pages/National-School-Lunch-Program.aspx and www.isbe.net/Pages/Seamless-Summer-Option.aspx.

105 ILCS 126/16 requires qualifying school districts to implement and operate a *breakfast after the bell* program in each of its school buildings where:

1. At least 70% or more of the students are eligible for free or reduced-price lunches based upon the previous year's October claim (for those schools that participate in the National School Lunch Program (NSLP),
2. At least 70% or more of the students are classified as low-income according to the Fall Housing Data from the previous year (for those schools that do not participate in the NSLP), or
3. An individual building's site percentage for free or reduced-price meals of 70% or more (for those schools using Provision 2 under Section 11(a)(1) of the federal Richard B. Russell National School Lunch Act or the Community Eligibility Provision (CEP) under Section 104(a) of the federal Healthy, Hunger-Free Kids Act of 2010 to provide universal meals).

Schools that fall below the applicable 70% threshold for two consecutive years may either continue participating in the program or discontinue it. *Id.*

Each school under this Section may determine the *breakfast after the bell* service model that best suits its students. Service models include, but are not limited to, breakfast in the classroom, grab and go breakfast, and second-chance breakfast. *Id.* at (c).

A district is not required to implement a breakfast after the bell program when it can demonstrate that:

If State funding is available for the Healthy School Meals for All Program, the Board will annually determine if it will participate in the program.⁴

Eligibility Criteria and Selection of Children⁵

A student's eligibility for free and reduced-price food services shall be determined by the income eligibility guidelines, family-size income standards, set annually by the U.S. Dept. of Agriculture and distributed by the Ill. State Board of Education.

Notification⁶

At the beginning of each school year, by letter, the District shall notify students and their parents/guardians of: (1) eligibility requirements for free and reduced-price food service; (2) the application process; (3) the name and telephone number of a contact person for the program;⁷ and (4)

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- a. Delivery of school breakfasts effectively, as defined by 70% or more of free or reduced-price eligible students participating in the National School Breakfast Program (NSBP), or
- b. Its reimbursement for the program would not fully cover its implementation and operation costs due to district-specific circumstances (a cost analysis must be submitted to the school board, the board must hold a public hearing, and the board must pass a resolution that the district cannot afford to operate a breakfast after the bell program).

A board must post the time, date, place, and general subject matter of the public hearing on its website and notify the Ill. State Board of Education at least 14 days prior to the hearing. *Id.* at (d).

³ 7 C.F.R. §245.10(a)(1).

⁴ Optional. 105 ILCS 125/2.3, added by P.A. 103-532. Subject to appropriation, the Ill. State Board of Education (ISBE) is required to establish the Healthy School Meals for All Program. *Id.* at (b). Participating boards must offer eligible meals, without charge, to all students enrolled in schools that participate in the National School Breakfast Program (NSBP) and National School Lunch Program (NSLP). To receive State reimbursement under the Healthy School Meals for All Program, a board must: (1) annually notify ISBE of its intent to participate in the program; (2) maximize its access to federal funds for NSBP and NSLP by participating in the CEP or another special assistance alternative, if eligible, and (3) operate the NSBP and NSLP in a manner that in the opinion of ISBE, draws down the most possible federal funding for meals served in the NSBP and NSLP. *Id.* at (b) and (e). If State funding is insufficient to cover reimbursement of all interested boards, ISBE is required to inform eligible schools of the impact of the inadequate funding so that boards can make an informed decision about food service administration in their districts.

⁵ 7 C.F.R. §245.3; see also the subhead titled Household Eligibility Information on ISBE's website at: www.isbe.net/Pages/School-Based-Child-Nutrition-Documents.aspx. If a child transfers from one district school to another district school, his or her eligibility for free or reduced price meals or for free milk, if previously established, is honored by the receiving school.

Beginning in the year 2011-2012, the U.S. Depts. of Agriculture and Education implemented the CEP, a new claiming option for providing reimbursements to school districts that provide free breakfasts and lunches to all students in schools with significantly economically disadvantaged populations. For more information about qualifying for and claiming through this reimbursement method, see www.isbe.net/Pages/Guidance-for-HHFKA.aspx.

For districts that qualify for and claim the CEP, insert the following sentence at the end of the first sentence:

From time to time, the income eligibility guidelines and standards may not be necessary when reimbursements for students' free breakfasts and lunches are claimed through the U.S. Depts. of Agriculture and Education's Community Eligibility Provision (CEP). When claiming the CEP, the District will follow its requirements.

All subheads in this policy that detail the legal requirements under State and federal laws continue to apply when CEP is used and should remain in the policy.

⁶ 7 C.F.R. §245.5; 23 Ill.Admin.Code §305.10(c). Any changes in the eligibility criteria must be announced according to 7 C.F.R. §245.5(b). Beginning 7-1-17, districts were required to clearly communicate their meal charge policy (or procedures) to students and their parents/guardians to ensure consistency and transparency. See sample exhibit 4:130-E, *Free and Reduced-Price Food Services; Meal Charge Notifications*. For additional guidance, see U.S. Dept. of Agriculture memo, *Unpaid Meal Charges: Local Meal Charge Policies* (7-8-16), available at: www.fns.usda.gov/cn/unpaid-meal-charges-local-meal-charge-policies.

⁷ 23 Ill.Admin.Code §305.10(c) requires notification of this one additional piece of information.

other information required by federal law. The Superintendent shall provide the same information to: (1) informational media, the local unemployment office, and any major area employers contemplating layoffs;⁸ and (2) the District's website (if applicable), all school newsletters, or students' registration materials.⁹ Parents/guardians enrolling a child in the District for the first time, any time during the school year, shall receive the eligibility information.

Nondiscrimination Assurance ¹⁰

The District shall avoid publicly identifying students receiving free or reduced-price meals and shall use methods for collecting meal payments that prevent identification of children receiving assistance.

Appeal ¹¹

A family may appeal the District's decision to deny an application for free and reduced-price food services or to terminate such services as outlined by the U.S. Dept. of Agriculture in 7 C.F.R. §245.7, Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools. The Superintendent shall establish a hearing procedure for adverse eligibility decisions and provide by mail a copy of them to the family. The District may also use these procedures to challenge a child's continued eligibility for free or reduced-price meals or milk.

During an appeal, students previously receiving food service benefits shall not have their benefits terminated. Students who were denied benefits shall not receive benefits during the appeal. ¹²

The Superintendent shall keep on file for a period of three years a record of any appeals made and the hearing record. The District shall also maintain accurate and complete records showing the data and method used to determine the number of eligible students served free and reduced-price food services. These records shall be maintained for three years.

LEGAL REF.: U.S. Dept. of Agriculture, Food and Nutrition Service, National School Lunch Program, 7 C.F.R. Part 210.
U.S. Dept. of Agriculture, Food and Nutrition Service, Determining Eligibility for Free and Reduced-Price Meals and Free Milk in Schools, 7 C.F.R. Part 245.
105 ILCS 125/, School Breakfast and Lunch Program Act.
105 ILCS 126/, Childhood Hunger Relief Act.
23 Ill.Admin.Code §305.10 et seq.

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

⁸ 7 C.F.R. §245.5.

⁹ 23 Ill.Admin.Code §305.10(c). Only one medium must be used; a board may choose one medium and delete the others from the policy or use them all.

¹⁰ 7 C.F.R. §§245.8 and 245.10(a)(4).

¹¹ 7 C.F.R. §245.7. The minimal hearing requirements are also found there.

¹² The Hunger-Free Students' Bill of Rights Act (HFSBRA) (105 ILCS 123/) requires the district to provide a free meal or snack to a student who requests it, regardless of his or her ability to pay. See f/ns to sample policy 4:45, *Insufficient Fund Checks and Debt Recovery*, for more information about this law. The HFSBRA does not contain a publication requirement.

For boards that wish to inform their communities about students' rights under the HFSBRA, add "105 ILCS 123/, Hunger-Free Students' Bill of Rights Act" to the Legal References and insert the following sentence:

The status of a student's appeal or eligibility for free or reduced-price food services shall not relieve the District of its obligation to provide him or her with a free meal or snack under the Hunger-Free Students' Bill of Rights Act if he or she requests one, regardless of his or her ability to pay.

Operational Services

Exhibit - Free and Reduced-Price Food Services; Meal Charge Notifications

On District letterhead, website, in student handbook, newsletters, bulletins, and/or calendars

Date:

To: Parents/Guardians, Students, and Staff

Re: Eligibility and Meal Charge Notifications

The following notification is provided to all households of students at the beginning of each school year as federally required notification regarding eligibility requirements and the application process for the free and reduced-price food services that are listed in Board policy 4:130, *Free and Reduced-Price Food Services*, and 4:140, *Waiver of Student Fees*. This notification is also provided to households of students transferring to the District during the school year. For more information, see www.fns.usda.gov/school-meals/unpaid-meal-charges, and/or contact the Building Principal or designee.

Free and Reduced-Price Food Services Eligibility

When the parents/guardians of students are unable to pay for their child(ren)'s meal services, meal charges will apply per a student's eligibility category and will be processed by the District accordingly.

A student's eligibility for free and reduced-price food services shall be determined by the income eligibility guidelines, family-size income standards, set annually by the U.S. Dept. of Agriculture, and distributed by the Ill. State Board of Education.

Meal Charges for Meals Provided by the District

The Building Principal and District staff will work jointly to prevent meal charges from accumulating. Every effort to collect all funds due to the District will be made on a regular basis and before the end of the school year. Contact your Building Principal or designee about whether your child(ren)'s charges may be carried over at the end of the school year, i.e., beyond June 30th.

Unpaid meal charges are considered delinquent debt when payment is overdue as defined by Board policy 4:45, *Insufficient Fund Checks and Debt Recovery* and the Hunger-Free Students' Bill of Rights Act (105 ILCS 123/). The District will make reasonable efforts to collect charges classified as delinquent debt, including repeated contacts to collect the amounts and, when necessary, requesting that the student's parent(s)/guardian(s) apply for meal benefits to determine if the student qualifies for such benefits under Board policy 4:130, *Free and Reduced-Price Food Services*. The District will provide a federally reimbursable meal or snack to a student who requests one, regardless of the student's ability to pay or negative account balance.

When a student's funds are low and when there is a negative balance, reminders will be provided to the staff, students, and their parent(s)/guardian(s) at regular intervals during the school year. State law allows the Building Principal to contact parent(s)/guardian(s) to attempt collection of the owed money when the amount owed is more than the amount of five lunches [*or insert lower amount*]. If a parent/guardian regularly fails to provide meal money for the child(ren) that he/she is responsible for in the District and does not qualify for free meal benefits or refuses to apply for such benefits, the Building Principal or designee will direct the next course of action. Continual failure to provide meal

money may require the District to notify the Ill. Dept. of Children and Family Services (DCFS) and/or take legal steps to recover the unpaid meal charges, up to and including seeking an offset under the State Comptroller Act, if applicable.

LEGAL REF.: Healthy Hunger-Free Kids Act of 2010 (P.L. 111-296).
 7 C.F.R. §245.5.
 105 ILCS 123/, Hunger-Free Students' Bill of Rights Act.
 23 Ill.Admin.Code Part 305, School Food Service.

Operational Services

Environmental Quality of Buildings and Grounds ¹

The Superintendent shall take all reasonable measures to protect: (1) the safety of District personnel, students, and visitors on District premises from risks associated with hazardous materials, and (2) the environmental quality of the District's buildings and grounds. ²

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¹ State and/or federal law control this policy's content and require districts to:

1. Have a procedure to comply with the Structural Pest Control Act (225 ILCS 235/) and the Lawn Care Products Application and Notice Act (415 ILCS 65/). See sample administrative procedure 4:160-AP, *Environmental Quality of Buildings and Grounds*.
2. Designate a staff person to be responsible for district compliance with the safety acts listed in #1 above. This policy designates the superintendent or designee.

Many State and federal laws regulate the environmental quality of schools. For example:

1. Several federal laws regulate asbestos as a hazardous substance, the most significant for schools being the Asbestos Hazard Emergency Response Act of 1986, 15 U.S.C. § 2641 *et seq.* The Asbestos Abatement Act, 105 ILCS 105/, requires schools to perform a variety of functions regarding asbestos. Federal and State regulations also require annual notice to parents and employees of the availability of the district's asbestos management plan. 40 C.F.R. §763.93(g)(4); 77 Ill.Admin.Code §855.300(a)(3). This can be inserted in student handbooks; the Ill. Principals Association (IPA) maintains a handbook service that coordinates with PRESS material, *Online Model Student Handbook* (MSH), at: www.ilprincipals.org/msh/.
2. The Indoor Air Quality Act, 410 ILCS 87/. The Ill. Dept. of Public Health (IDPH) Guidelines for Indoor Air Quality are advisory, i.e., not enforceable. See <https://dph.illinois.gov/topics-services/environmental-health-protection/toxicology/indoor-air-quality-healthy-homes>.
3. The Smoke-Free Illinois Act, 410 ILCS 82/, bans tobacco smoking inside schools.
4. The Structural Pest Control Act, 225 ILCS 235/ requires IDPH to establish guidelines for an integrated pest management program for schools. See <https://dph.illinois.gov/topics-services/environmental-health-protection/structural-pest-control/integrated-pest-management>, or <https://dph.illinois.gov/topics-services/environmental-health-protection/structural-pest-control>.
5. Notices to employees and parents/guardians before pesticide applications are required by the Structural Pest Control Act. 225 ILCS 235/10.3. The Lawn Care Products Application and Notice Act requires similar notices but only to parents/guardians. 415 ILCS 65/3.
6. The Green Cleaning School Act, 105 ILCS 140/, and Green Cleaning for Elementary and Secondary Schools, 23 Ill.Admin.Code Part 2800, contain guidelines for green cleaning. See policy 4:150, *Facility Management and Building Programs*.
7. The Green Buildings Act requires all new State-funded building construction and major renovation projects to meet specified environmental requirements. 20 ILCS 3130/. Waivers may be granted by the Capital Development Board in certain situations. *Id.*
8. The Ill. legislature recommended that each occupied school building be tested every five years for radon and provided a process for the screening in 105 ILCS 5/10-20.48. Employers must provide all employees with an education and training program with respect to all toxic substances to which an employee is routinely exposed while working. 820 ILCS 255/16; 23 Ill.Admin.Code §1.330. However, this section and most of the Toxic Substances Disclosure to Employees Act (820 ILCS 255/) are **inoperative**; its implementing rules (56 Ill.Admin.Code Part 205) were repealed. Instead, the Ill. Dept. of Labor enforces the federal Occupational Safety and Health Administration Hazard Communication Standards at 29 C.F.R. §1910.1200. 820 ILCS 255/1.5, amended by P.A. 102-1071. Thus, school districts must follow the federal disclosure and training requirements.

² A board persuaded by #8 in the above footnote may add the following option:

If economically feasible, the Superintendent or designee shall manage the testing of each occupied school building for radon pursuant to Section 10-20.48 of the School Code.

Pesticides

Pesticides will not be applied on the paved surfaces, playgrounds, or playing fields of any school serving grades K-8 during a school day or partial school day when students are in attendance for instructional purposes.³ Additionally, the application of any restricted use pesticides is prohibited on or within 500 feet of school property during normal school hours.⁴ Before pesticides are used on District premises, the Superintendent or designee shall notify employees and parents/guardians of students as required by the Structural Pest Control Act, 225 ILCS 235/, and the Lawn Care Products Application and Notice Act, 415 ILCS 65/.⁵

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A board may want to add the following option if it is concerned that employees who are eligible for district-paid hepatitis B vaccination are unaware of their eligibility:

The Superintendent or designee shall notify all employees who must be offered, according to State or federal law, District-paid hepatitis B vaccine and vaccination.

³ Pesticide Application at Schools Act (PASA), 105 ILCS 160/, added by P.A. 103-496, prohibits schools serving students grades K-8 from scheduling pesticide applications on school grounds during the school day when students are in attendance for instructional purposes. Areas prohibited from treatment include paved surfaces, playgrounds and playing fields, where children are typically present. For High School only districts, delete this sentence, ~~Additionally~~, at the start of the next sentence, and 105 ILCS 160/, Pesticide Application at Schools Act from the Legal References.

Pesticides is not specifically defined in PASA; however, the Illinois Pesticide Act (IPA) defines both *pesticides* and the subcategory of *restricted use pesticides*. 415 ILCS 60/4. PASA therefore appears broader than the IPA because it applies to *all* pesticides, including those that are not *restricted use pesticides*. See f/n 4, below. However, PASA is narrower than the IPA in two ways. First, PASA's geographic scope is narrower than the IPA because PASA does not apply to "areas of school grounds where children are typically not present, including, but not limited to flower beds and lawns surrounding the school not used as playing fields." *Id.* at 160/15. Second, PASA is narrower in that its prohibition is only in effect when students are in attendance for instruction, compared to the IPA prohibition that applies during *normal school hours* and could extend beyond instructional hours. See f/n 4, below. For ease in administering these slightly different standards, an elementary or unit district may want to follow the more restrictive geographic and temporal prohibitions in the IPA but apply them to all types of pesticides. See sample administrative procedure 4:160-AP, *Environmental Quality of Buildings and Grounds*.

⁴ 415 ILCS 60/14 3.F., added by P.A. 102-548. *Normal school hours* means Monday through Friday from 7 a.m. until 4 p.m., excluding days when classes are not in session. *Id.* The statute prohibits restricted pesticide applications during *normal hours* but defines *normal school hours*. This policy uses normal school hours. *State Restricted Pesticide Use* is defined as any pesticide use which the Director (Ill. Dept. of Agriculture or his or her authorized representative) determines, subsequent to public hearing, that an additional restriction for that use is needed to prevent unreasonable adverse effects. *Id.* at 60/4 36.

⁵ Different requirements pertain to the notices in the Structural Pest Control Act (225 ILCS 235/10.3) and the Lawn Care Products Application and Notice Act (415 ILCS 65/3(f)). Both require notice to parents/guardians. Notice to employees is only required by the Structural Pest Control Act. For the sake of simplicity, the sample policy requires notice to employees before pesticides are used. Notice at least four business days before application is required by Lawn Care Products Application and Notice Act; notice at least two business days is required by the Structural Pest Control Act; and the Illinois Pesticide Act (415 ILCS 60/14 3.F., amended by P.A. 102-548) makes it unlawful to apply a restricted use pesticide on or within 500 feet of school property during normal hours, except for whole structure fumigation, and if the pesticide application information listed on the pesticide label is more restrictive than the law, then the more restrictive provision applies.

If a registry is maintained, replace the last sentence with this alternative:

The Superintendent or designee shall maintain a registry of employees and parents/guardians of students requesting notification before the application of pesticide(s) and notify those people as required by the Structural Pest Control Act, 225 ILCS 235/, and the Lawn Care Products Application and Notice Act, 415 ILCS 65/.

Be sure the notice provisions in the policy and its implementing administrative procedure are consistent.

Coal Tar Sealant⁶

Before coal tar-based sealant products or high polycyclic aromatic hydrocarbon sealant products are used on District premises, the Superintendent or designee shall notify employees and parents/guardians of students in writing or by telephone as required by the Coal Tar Sealant Disclosure Act.

LEGAL REF.: 105 ILCS 5/10-20.17a; 5/10-20.48.
29 C.F.R. §1910.1030, Occupational Exposure to Bloodborne Pathogens, as adopted by the Illinois Department of Labor, 56 Ill.Admin.Code §350.700(b).
29 C.F.R. §1910.1200, Occupational Safety and Health Administration Hazard Communication Standards, as adopted by 820 ILCS 255/1.5, Toxic Substances Disclosure to Employees Act.
20 ILCS 3130/, Green Buildings Act.
105 ILCS 135/, Toxic Art Supplies in Schools Act.
105 ILCS 140/, Green Cleaning School Act.
105 ILCS 160/, Pesticide Application at Schools Act.
225 ILCS 235/, Structural Pest Control Act.
415 ILCS 60/14, Illinois Pesticide Act.
415 ILCS 65/, Lawn Care Products Application and Notice Act.
410 ILCS 170/, Coal Tar Sealant Disclosure Act.
820 ILCS 255/, Toxic Substances Disclosure to Employees Act. (inoperative)
23 Ill.Admin.Code §1.330.

CROSS REF.: 4:150 (Facility Management and Building Programs), 4:170 (Safety)

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⁶ 410 ILCS 170/10(a)(1)-(4), added by P.A. 102-242, requires schools to provide written or telephonic notification to employees and parents/guardians of students prior to any application of a coal tar-based sealant product or a high polycyclic aromatic hydrocarbon sealant product. Written notifications must: (1) be included in newsletters, bulletins, calendars, or other correspondence currently published by the district (this is the only prong of written notice that is permissive); (2) be given at least 10 business days before the application and should identify the intended date and location of the application of the coal tar-based sealant product or high polycyclic aromatic hydrocarbon sealant; (3) include the name and telephone contact number for the school or day care center (if the district has one) personnel responsible for the application; and (4) include any health hazards associated with coal tar-based sealant product or high polycyclic aromatic hydrocarbon sealant product, as provided by a corresponding safety data sheet.

Districts may want to include numbers (3) and (4) in their student handbooks. The IPA maintains a handbook service that coordinates with PRESS material, Online Model Student Handbook (MSH), at: www.ilprincipals.org/msh/.

Operational Services

Administrative Procedure - Environmental Quality of Buildings and Grounds

Hazardous and/or Infectious Materials

The Buildings and Grounds Supervisor is responsible for the District's compliance with State and federal law concerning toxic, hazardous, and/or infectious materials.¹ This includes requirements in the federal Occupational Safety and Health Administration (OSHA) Hazard Communication Standards (29 C.F.R. §1910.1200), adopted by the State Toxic Substances Disclosure to Employees Act (820 ILCS 255/, otherwise inoperative). See information on OSHA's website at www.osha.gov/hazcom.

Pesticide Application on School Grounds²

The Buildings and Grounds Supervisor is responsible for compliance with the Lawn Care Products Application and Notice Act (415 ILCS 65/3) and the Pesticide Application at Schools Act (105 ILCS 160/)³ and shall:

1. Provide an annual schedule of pesticide application to the supervisor of each District building, ensuring that the applications take place outside of normal school hours (Monday through Friday, before 7 a.m. or after 4 p.m. or on days when students are not in attendance).
2. In coordination with the supervisor of each District building (including each Building Principal), notify employees and students and their parents/guardians in each building. The notification must:
 - a. Be provided at least four business days before a pesticide application on school grounds.
 - b. Be written or by telephone. If written, the notice may be included in newsletters, calendars, or other correspondence currently being published.
 - c. Identify the intended date of the application.
 - d. Provide the name and telephone contact number for the Buildings and Grounds Supervisor or other school personnel responsible for the pesticide program.

Prior notice is not required if an imminent threat to health or property exists. If such a situation arises, the Buildings and Grounds Supervisor must sign a statement describing the circumstances that gave rise to the health threat and ensure that written or telephonic notice is provided as soon as practicable.

The footnotes should be removed before the material is used.

¹ Alternatively, these duties may be given to another staff member, in which case that staff member's title should replace "Buildings and Grounds Supervisor" throughout this procedure.

² Notice to parents/guardians of students is required before pesticides are applied on school grounds (see the Lawn Care Products Application and Notice Act, 415 ILCS 65/3(f)). Notice to employees, while not required, is included in this procedure because notice to employees is mandated by the Structural Pest Control Act, 225 ILCS 235/10.3. Item #1 is not legally required. Items #2a-d are required by 415 ILCS 65/3(f)(3). The district may alternatively maintain a registry of parents/guardians requesting written notification of pesticide application and notify only those people in the registry. Be sure the notice provision is consistent with board policy.

³ Delete the citation to the Pesticide Application at Schools Act (PASA) from this sentence and the Legal References for high school only districts. 105 ILCS 160/, added by P.A. 103-496, only applies to schools serving grades K-8. See sample policy 4:160, *Environmental Quality of Buildings and Grounds*, at f/n 3, for a discussion about the differences between PASA and the Illinois Pesticide Act (IPA), 415 ILCS 60/. For ease of administration, this procedure uses the stricter *normal school hours* standard in the IPA.

Pesticide Application in School Buildings and Structures ⁴

The Buildings and Grounds Supervisor is responsible for compliance with the requirements in the Structural Pest Control Act (225 ILCS 235/) and shall:

1. Provide an annual schedule of pesticide application to the supervisor of each District building, ensuring that the applications take place outside of normal school hours (Monday through Friday, before 7 a.m. or after 4 p.m. or on days when students are not in attendance).
2. In coordination with the supervisor of each District building (including each Building Principal):
 - a. Maintain a registry of all employees and parents/guardians of students.
 - b. Notify those employees and parents/guardians of students before pesticides are applied in or on each building. The notification must:
 - i. Be provided at least two business days before a pesticide application in or on school buildings.
 - ii. Be written. The notice may be included in newsletters, bulletins, calendars, or other correspondence currently being published.
 - iii. Identify the intended date of the application.
 - iv. Provide the name and telephone contact number for the Buildings and Grounds Supervisor or other school personnel responsible for the pesticide program.

Prior notice is not required if an imminent threat to health or property exists. If such a situation arises, the Buildings and Grounds Supervisor must sign a statement describing the circumstances that gave rise to the health threat and ensure that written notice is provided as soon as practicable.

The Buildings and Grounds Supervisor is responsible for the District's integrated pest management program and the District's compliance with the Structural Pest Control Act. 225 ILCS 235/.

☐ *Applicable if the Superintendent determines that an integrated pest management program is economically feasible:*

The Buildings and Grounds Supervisor or designee shall: (1) develop and implement a program incorporating the Department of Public Health guidelines; (2) notify the Department, on forms provided by the Department, that a program is being implemented; (3) repeat the notification every five years after the initial notification; and (4) keep copies of all notifications and all written integrated pest management program plans.

☐ *Applicable if the Superintendent determines that adopting an integrated pest management program is not economically feasible because such adoption would result in an increase in pest control costs:*

The Buildings and Grounds Supervisor or designee shall: (1) notify the Department, on forms provided by the Department, that the development and implementation of an integrated pest management program is not economically feasible; (2) include in the notification the projected pest control costs for the term of the pest control program and projected costs for implementing a program for that same time period; (3) repeat this notification every five years after the initial

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⁴ Item #1 is not legally required. The registry identified in item #2a is required by the Structural Pest Control Act, 225 ILCS 235/10.3. However, for ease of compliance, the procedure automatically puts all employees and parents/guardians in the registry. Change #2a as follows if the superintendent prefers to limit the registry to only those who expressed interest in being notified: "Maintain a registry of all employees and parents/guardians who have requested to receive notice before pesticides are applied to school property." The notice described in item #2b, i-iv, is required by 225 ILCS 235/10.3. Be sure the notice provision is consistent with board policy.

notification until a program is developed and implemented; and (4) attend a training course, approved by the Department, on integrated pest management and repeat attendance every five years thereafter until a program is developed and implemented in the District's schools.

The Buildings and Grounds Supervisor or designee shall maintain copies of all notifications that are required by the Structural Pest Control Act and provide the Building Principal(s) or designee(s) sufficient information to allow him/her/them to inform all parents/guardians and school employees at least once each school year that the District has met its notification requirements.

Training and Necessary Equipment

Each Building Principal and noncertificated staff supervisor shall ensure that all staff members under his or her supervision receive training on the safe handling and use of hazardous materials as required by 105 ILCS 5/10-20.17a. Emergency response and evacuation plans must be a part of the training.

Before an employee is given an assignment where contact with blood or bodily fluids or other hazardous material is likely, the employee must be provided the necessary training, including training in the universal precautions and other infection control measures to prevent the transmission of communicable diseases and/or to reduce potential health hazards as required by 23 Ill.Admin.Code §1.330. The appropriate supervisor shall maintain an attendance record of an employee's participation in the training.

Substitute Non-Hazardous Materials

District staff shall comply with State law governing toxic art supplies in schools. 105 ILCS 135/. This includes substituting non-hazardous material for hazardous substances whenever possible and minimizing the quantity of hazardous substances stored in school facilities. No art or craft material containing a toxic substance shall be ordered or purchased for use through grade 6; material containing toxic substances may be used in grades 7 through 12 only if properly labeled according to State law.

Infectious Materials

The Buildings and Grounds Supervisor shall prepare and distribute to all employees an Occupational Exposure Control Plan to eliminate or minimize occupational exposure to potentially infectious materials.⁵ The Plan shall comply with the Bloodborne Pathogens Standards adopted by State and federal regulatory agencies and an updated copy given to the Superintendent annually. The Plan shall address the following issues:

1. Exposure determination. Positions that do not subject the employee to occupational exposure are generally exempt from the Plan and the Standards.
2. Implementation schedule specifying how and when risks are to be reduced. The Standards are very specific on risks reduction, e.g., Universal Precautions must be followed; engineering and work practice controls are specified (hand washing, restricted food areas); personal protection equipment must be provided; housekeeping requirements are specified (regulated waste disposal and laundry); vaccination requirements (all employees who have occupational exposure must be offered, at employer expense, the hepatitis B vaccine and vaccination

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⁵ The federal regulatory agency administering the Occupational Safety and Health Act (OSHA) issued Bloodborne Pathogens Standards (29 C.F.R. §1910.1030) that were adopted by the Ill. Department of Labor (56 Ill.Admin.Code §350.700). The Standards were developed to reduce the risk of occupational exposure to bloodborne pathogens. According to the Standards, occupational exposure means "reasonably anticipated skin, eye, mucous membrane, or parenteral contact with blood or other potentially infectious materials that may result from the performance of an employee's duties." The Standards require employers to institute a written Exposure Control Plan containing the elements in the sample procedures.

series); communication of hazards to employees through labeling and training; and recordkeeping.

3. Process for ensuring that all medical evaluations and procedures, including the hepatitis B vaccine and vaccination series and post-exposure evaluation and follow-up, are available as required by law.
4. Procedures for evaluating an exposure incident.

Emergency Response Plan

The Building Principal shall ensure that proper procedures for the cleanup of potentially hazardous material spills are followed including the following:

1. A building custodian is responsible for the actual cleanup,
2. Personal protective equipment, chemical neutralization kits, and absorbent material are available in each building at all times, and
3. Spill residue is placed in containers designated for such purpose and disposed of in compliance with local, State, and federal law.

Evacuation

The Building Principal shall ensure compliance with the School Safety Drill Act. 105 ILCS 128/. This includes, among other things, ensuring that evacuation rules are posted in each room and discussed with each class using the room during the first days of the school year. The evacuation rules indicate the primary and alternate exits and the evacuation area to which students should proceed upon leaving the building.

The Building Principal shall conduct evacuation drills according to School Board policy 4:170, *Safety*, and administrative procedure 4:170-AP1, *Comprehensive Safety and Security Plan*.

LEGAL REF: 29 C.F.R. §1910.1030, Occupational Exposure to Bloodborne Pathogens, adopted by the Ill. Department of Labor at 56 Ill.Admin.Code §350.300.
 29 C.F.R. §1910.1200, Occupational Safety and Health Administration Hazard Communication Standards, adopted by 820 ILCS 255/1.5, Toxic Substances Disclosure to Employees Act.
 105 ILCS 5/10-20.17a and 5/10-20.49.
 105 ILCS 135/, Toxic Art Supplies in School Act.
 105 ILCS 140/, Green Cleaning School Act.
 105 ILCS 160/, Pesticide Application at Schools Act.
 225 ILCS 235/, Structural Pest Control Act.
 415 ILCS 65/, Lawn Care Products Application and Notice Act.23 Ill.Admin.Code §1.330.

Operational Services

Safety ¹

Safety and Security

All District operations, including the education program, shall be conducted in a manner that will promote the safety and security of everyone on District property or at a District event.² The Superintendent or designee shall develop, implement, and maintain a comprehensive safety and security plan that includes, without limitation:

1. An emergency operations and crisis response plan(s) addressing prevention, preparation, response, and recovery for each school;³

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

¹ State law requires a policy on several topics in this policy and otherwise controls this policy's content. Topics previously assigned to this code number were moved in May 2014 and placed in sample policies 4:100, *Insurance Management*, and 4:175, *Convicted Child Sex Offender; Screening; Notifications*.

Grants may be available from the Ill. State Board of Education (ISBE) to support school safety improvements, including professional development; safety-related upgrades to school buildings, equipment, and facilities; additional resources to implement restorative interventions and resolution strategies as alternatives to exclusionary discipline; and crisis response mapping data. 105 ILCS 5/2-3.180, 5/2-3.181, and 128/50 (final citation pending), added by P.A. 103-8.

Based upon the recommendation of the Federal Commission on School Safety in 2018 (www2.ed.gov/documents/school-safety/school-safety-report.pdf), the U.S. Depts. of Homeland Security, Education, Justice, and Health and Human Services created a central school safety clearinghouse website at: www.schoolsafety.gov, to share actionable recommendations to help schools prevent, protect, mitigate, respond to, and recover from emergency situations. Topics include bullying/cyberbullying, student mental health, school climate, threat assessment, emergency planning, security, recovery, and drills.

² This sample end statement should be discussed and altered accordingly before board adoption. Ask: what effect or impact will this statement have on the students and the community?

³ The term *emergency operations and crisis response plan* is used because federal agencies refer to school *emergency operations plans* and the School Safety Drill Act (105 ILCS 128/) refers to *emergency and crisis response plans*. 105 ILCS 128/50 (final citation pending), added by P.A. 103-194, eff. 1-1-24, requires a school building's emergency and crisis response plan, protocol, and procedures to include a plan for local law enforcement to rapidly enter a school building in an emergency.

See administrative procedure 4:170-API, *Comprehensive Safety and Security Plan*. This procedure follows the recommendations in the *Guide for Developing High-Quality School Emergency Operations Plans*, produced by a collaboration of federal agencies in June 2013 at: www.rems.ed.gov/docs/REMS_K-12_Guide_508.pdf. The *Guide* informs schools what they *need* to do, not *what* to do. It recommends a process for developing, implementing, and continually refining a school emergency operations plan as well as a discussion of its form, function, and content. See also *The Role of Districts in Developing High-Quality School Emergency Operations Plans: A Companion to the School Guide*, at: https://rems.ed.gov/docs/District_Guide_508C.pdf.

ISBE maintains a comprehensive website on school emergency and crisis response planning in compliance with the School Safety Drill Act and Joint Rules of the Office of the State Fire Marshal and ISBE (29 Ill.Admin.Code Part 1500), at www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx. ISBE's website includes a *Sample School Emergency Operations Plan* which aligns with the federal *Guide for Developing High-Quality School Emergency Operations Plans*.

105 ILCS 128/45 required school districts to implement a threat assessment procedure by 12-6-19, and to establish a threat assessment team by 2-19-20. The threat assessment procedure may be part of a board policy on targeted school violence prevention that includes the creation of a threat assessment team. For more discussion, see sample policy 4:190, *Targeted School Violence Prevention Program*.

2. Provisions for a coordinated effort with local law enforcement and fire officials, emergency medical services personnel, and the Board Attorney;
3. A school safety drill plan;
4. Instruction in safe bus riding practices;⁴ and
5. A clear, rapid, factual, and coordinated system of internal and external communication.

In the event of an emergency that threatens the safety of any person or property, students and staff are encouraged to follow the best practices discussed for their building regarding the use of any available cellular telephones.⁵

School Safety Drill Plan⁶

During every academic year, each school building that houses school children shall conduct, at a minimum, each of the following in accordance with the School Safety Drill Act (105 ILCS 128/):

1. Three school evacuation drills to address and prepare students and school personnel for fire incidents. One of these three drills shall require the participation of the local fire department or district.
2. One bus evacuation drill.
3. One severe weather and shelter-in-place drill to address and prepare students and school personnel for possible tornado incidents.
4. One law enforcement lockdown drill to address a school shooting incident and to evaluate the preparedness of school personnel and students. This drill shall occur no later than 90 days after the first day of school of each year, and shall require the participation of all school

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105 ILCS 5/10-20.72 allows school districts to install a door security locking means on a door of a school building to prevent unwanted entry through the door only if the door security locking means is used: (1) by a trained school district employee; (2) during an emergency that threatens the health and safety of students and employees or during an active shooter drill; and (3) when local law enforcement officials and the local fire department have been notified of its installation prior to its use. *Id.*

⁴ Required by 105 ILCS 128/20(b) and 105 ILCS 5/10-20.14(c) for all students. See 4:110-AP3, *School Bus Safety Rules*.

⁵ 105 ILCS 5/10-20.28. Consider discussing with local law enforcement what its preference would be and encourage staff and students to follow the recommendation. A wave of 911 cell phone calls can jam phone lines. Student use of cell phones is addressed in 7:190, *Student Behavior*.

625 ILCS 5/12-610.1(e) prohibits wireless telephone use at any time while operating a motor vehicle on a roadway in a school speed zone except for: (1) highway construction or maintenance workers within their work zones; (2) any use for emergency purposes; (3) law enforcement officers or emergency responders performing their duties; (4) a person using a wireless telephone in voice-operated mode with or without use of a headset; (5) a person with technology that uses a single button to initiate or terminate a voice communication, e.g., *HandsFreeLink®*; and (6) a person using an electronic communication device solely to report an emergency and for continued communication with emergency personnel. 625 ILCS 5/12-813.1 limits cell phone use by school bus drivers; see policy 4:110, *Transportation*.

⁶ Each of the listed drills is required by the School Safety Drill Act. Each drill's requirements are comprehensively covered in 4:170-AP1, *Comprehensive Safety and Security Plan*. For information about documenting minimum compliance with the School Safety Drill Act, see www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx.

105 ILCS 5/2-3.12(f) authorizes the Ill. State Fire Marshal or a qualified fire official to whom the Ill. State Fire Marshal has delegated his or her authority to conduct an annual fire safety inspection of each school building, provided the inspection is coordinated with the regional superintendent. See also 105 ILCS 5/3-14.21(c) (inspection of schools) and 23 Ill.Admin.Code §180.300(b) (annual building and fire safety inspections). To effectively implement this law and ensure the education of students in the district is not disturbed, school officials should discuss with the Ill. State Fire Marshal and regional superintendent whether written notice may be provided to the principal requesting to schedule a mutually agreed upon time.

personnel and students present at school at the time of the drill, except for those exempted by administrators, school support personnel, or a parent/guardian.⁷

Annual Review

The Board or its designee will annually review each school building's emergency operations and crisis response plan(s), protocols, and procedures, as well as each building's compliance with the school safety drill plan. This annual review shall be in accordance with the School Safety Drill Act (105 ILCS 128/) and the Joint Rules of the Office of the State Fire Marshal and the Ill. State Board of Education (ISBE). 29 Ill.Admin.Code Part 1500.⁸

Automated External Defibrillator (AED)⁹

The Superintendent or designee shall implement a written plan for responding to medical emergencies at the District's physical fitness facilities in accordance with the Fitness Facility Medical Emergency Preparedness Act and shall file a copy of the plan with the Ill. Dept. of Public Health (IDPH). The plan shall provide for at least one automated external defibrillator (AED) to be available at every physical fitness facility on the premises according to State law requirements.

The District shall have an AED on site as well as a trained AED user: (1) on staff during staffed business hours; and (2) available during activities or events sponsored and conducted or supervised by the District.¹⁰ The Superintendent or designee shall ensure that every AED on the District's

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⁷ 105 ILCS 128/20(c), amended by P.A. 102-395. While 105 ILCS 128/20(c) uses both *lockdown drill* and *walk-through lockdown drill*, the terms are synonymous. For brevity, this material uses the term *lockdown drill*. Schools must (1) notify parents/guardians in advance of any lockdown drill that involves student participation, and (2) allow parents/guardians to exempt their child(ren) from participating for any reason. School administrators and support personnel may, at their discretion, exempt a student from participating in a lockdown drill. 105 ILCS 128/20(c)(4), added by P.A. 102-395. When deciding whether to exempt a student, such personnel must include the student's individualized education program team or 504 plan team, if any, in the decision. 105 ILCS 128/20(c)(4), amended by P.A. 103-197, eff. 1-1-24. For students who do not participate in the lockdown drill, districts must provide alternative safety education and instruction related to an active threat or active shooter event. For students who do participate in the lockdown drill, districts must allow them to ask questions related to it.

Law enforcement may only run an active shooter simulation, including simulated gun fire drills, on school days when students are not present. 105 ILCS 128/20(c)(5)-(8), added by P.A. 102-395.

⁸ The School Safety Drill Act requires each school board or its designee to conduct one annual meeting at which it reviews each building's emergency and crisis response plan, protocols, and procedures, including procedures regarding the school district's threat assessment team, the efficacy and effects of law enforcement drills, and each building's compliance with the school safety drill plan. 105 ILCS 128/25, amended by P.A. 102-395, and 128/30; 29 Ill.Admin.Code Part 1500. If the board uses a designee, it should preferably be someone other than the District Safety Coordinator to assure an unbiased audit. The statute contains detailed requirements. The board or its designee must: (1) complete a one-page report certifying that the review took place, among other things; (2) send a copy of the report to each participating party; and (3) send a copy of the report to the appropriate Regional Superintendent. 105 ILCS 128/25(c), (d). ISBE's website contains a suggested annual review checklist and a report form to document compliance at: www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx.

⁹ Each indoor and outdoor physical fitness facility serving at least 100 individuals must "adopt and implement a written plan for responding to medical emergencies that occur at the facility during the time that the facility is open for use by its members or by the public." 210 ILCS 74/10(a). The facility must file the plan with the Ill. Dept. of Public Health (IDPH). *Id.* In addition, each indoor facility must have at least one AED on the premises, and each outdoor facility must house an AED in a building, if any, that is within 300 feet of the outdoor facility. 210 ILCS 74/15. See the statute and administrative rules for the other numerous mandates: 210 ILCS 74/, Physical Fitness Facility Medical Emergency Preparedness Act; 77 Ill.Admin.Code Part 527, Physical Fitness Facility Medical Emergency Preparedness Code. Also see 4:170-AP6, *Plan for Responding to a Medical Emergency at a Physical Fitness Facility with an AED*.

¹⁰ 77 Ill.Admin.Code §527.600(d), (f).

premises is properly tested and maintained in accordance with rules developed by the IDPH.¹¹ This policy does not create an obligation to use an AED.

Carbon Monoxide Alarms ¹²

The Superintendent or designee shall implement a plan with the District's local fire officials to:

1. Determine which school buildings to equip with approved *carbon monoxide alarms* or *carbon monoxide detectors*,
2. Locate the required carbon monoxide alarms or carbon monoxide detectors within 20 feet of a carbon monoxide emitting device, and
3. Incorporate carbon monoxide alarm or detector activation procedures into each school building that requires a carbon monoxide alarm or detector. The Superintendent or designee shall ensure each school building annually reviews these procedures.

Soccer Goal Safety ¹³

The Superintendent or designee shall implement the Movable Soccer Goal Safety Act in accordance with the guidance published by the IDPH. Implementation of the Act shall be directed toward improving the safety of movable soccer goals by requiring that they be properly anchored.

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

¹¹ 210 ILCS 74/15(c); 77 Ill.Admin.Code §527.700.

¹² 105 ILCS 5/10-20.57. *Carbon monoxide detector* and *detector* mean a device having a sensor that responds to carbon monoxide gas and that is connected to an alarm control unit and approved in accordance with rules adopted by the Ill. State Fire Marshal. 105 ILCS 5/10-20.57(a). *Approved carbon monoxide alarm* or *alarm* means a carbon monoxide alarm that complies with all the requirements of the rules and regulations of the Ill. State Fire Marshal, bears the label of a nationally recognized testing laboratory, and complies with the most recent standards of the Underwriters Laboratories or the Canadian Standard Association. 430 ILCS 135/5.

Consult both the board attorney and the local fire officials about whether a school building is exempt from this law. Remove this subhead if the board attorney determines that every building across the entire school district is exempt. The law applies to school buildings that have or are close to any *sources of carbon monoxide*; however, it does not specifically define what that means. 430 ILCS 135/20 defines exemptions for residential units and may provide guidance on the exemption for schools. The law also fails to define *carbon monoxide emitting device*, which triggers the placement point in a school building for a carbon monoxide alarm or carbon monoxide detector.

¹³ Include this section **only if** the school district owns and controls a movable soccer goal Movable Soccer Goal Safety Act, a/k/a *Zach's Law*, 430 ILCS 145/. The Act requires: (1) organizations that own and control a movable soccer goal to create a soccer goal safety and education policy that outlines how the organization will specifically address the safety issues associated with movable soccer goals; and (2) the IDPH to provide technical assistance materials. 430 ILCS 145/10, 20. See www.dph.illinois.gov/topics-services/prevention-wellness/injury-violence-prevention/soccer-goal-safety.

Unsafe School Choice Option¹⁴

The unsafe school choice option allows students to transfer to another District school or to a public charter school within the District. The unsafe school choice option is available to:

1. All students attending a persistently dangerous school, as defined by State law and identified by the ISBE.
2. Any student who is a victim of a violent criminal offense, as defined by 725 ILCS 120/3, that occurred on school grounds during regular school hours or during a school-sponsored event.

The Superintendent or designee shall develop procedures to implement the unsafe school choice option.

Lead Testing in Water¹⁵

The Superintendent or designee shall implement testing for lead in each source of drinking water in school buildings in accordance with the Ill. Plumbing License Law and guidance published by the IDPH.¹⁶ The Superintendent or designee shall notify parent(s)/guardian(s) about the sampling results from their children's respective school buildings.¹⁷

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

¹⁴ This topic must be covered in board policy. 105 ILCS 5/10-21.3a. See also 20 U.S.C. §7912 (unsafe school choice option). ISBE maintains a list of persistently dangerous schools. Districts having only one school may substitute the following for this paragraph:

The unsafe school choice option provided in State law permits students to transfer to another school within the District in certain situations. This transfer option is unavailable in this District because the District has only one school or attendance center. A student, who would otherwise have qualified for the choice option, or such a student's parent/guardian, may request special accommodations from the Superintendent or designee.

Districts with each grade in only one attendance center may substitute the following for this paragraph:

The unsafe school choice option provided in State law permits students to transfer to another school within the District in certain situations. This transfer option is unavailable in this District because each grade is in only one attendance center. A student, who would otherwise have qualified for the choice option, or such a student's parent/guardian, may request special accommodations from the Superintendent or designee.

¹⁵ 225 ILCS 320/35.5. Requires that each source of potable water in school buildings constructed on or before 1-1-00, which may be occupied by more than 10 children in grades pre-K through 5, be tested for lead. Testing for buildings constructed prior to 1-1-87 must have been conducted by 12-31-17. 225 ILCS 320/35.5(c)(4). Testing for buildings constructed between 1-2-87 and 1-1-00 must have been conducted by 12-31-18. *Id.* By 6-30-19, the IDPH was to determine whether it is necessary and appropriate to require testing for buildings constructed after 1-1-00. 225 ILCS 320/35.5(d). IDPH recommends that all schools constructed in whole or in part from 1-2-00 through 1-4-14 test all sources of potable water for lead. See IDPH's recommendations at: www.isbe.net/Documents/Improving-Water-Quality-Illinois-Schools.pdf. For high school districts, delete this subhead if no lead testing occurs.

Boards may, by resolution, use excess taxes levied for fire prevention, safety, energy conservation, and school security purposes for sampling lead in drinking water in schools and for repair and mitigation due to lead levels in the drinking water supply. 105 ILCS 5/17-2.11(j)(1).

¹⁶ 225 ILCS 320/35.5(e) requires the IDPH to post on its website guidance on mitigation actions for lead in drinking water, and ongoing water management practices, in schools. See *Mitigation Strategies for Lead Found in School Drinking Water* at: <https://dph.illinois.gov/content/dam/soi/en/web/idph/files/publications/school-lead-mitigation-strategies-050917.pdf>.

¹⁷ If any samples taken in the school exceed five parts per billion, a district must provide individual notification of sampling results, via written or electronic communication, to parents/guardians of all enrolled students that must include: (1) the corresponding sampling location within the school building; and (2) the U.S. Environmental Protection Agency's website for information about lead in drinking water at: www.epa.gov/ground-water-and-drinking-water/basic-information-about-lead-drinking-water. 225 ILCS 320/35.5(c)(3). If any samples taken in the school are at or below five parts per billion, notification may be made in the same manner or by posting on the school's website. *Id.*

Emergency Closing

The Superintendent is authorized to close school(s) in the event of hazardous weather or other emergency that threatens the safety of students, staff members, or school property. ¹⁸

LEGAL REF.: 105 ILCS 5/10-20.2, 5/10-20.57, 5/18-12, and 5/18-12.5.
105 ILCS 128/, School Safety Drill Act; 29 Ill.Admin.Code Part 1500.
210 ILCS 74/, Physical Fitness Facility Medical Emergency Preparedness Act.
225 ILCS 320/35.5, Ill. Plumbing License Law.

CROSS REF.: 4:110 (Transportation), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 4:180 (Pandemic Preparedness; Management; and Recovery), 4:190 (Targeted School Violence Prevention Program), 5:30 (Hiring Process and Criteria), 8:30 (Visitors to and Conduct on School Property), 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.

¹⁸ When a school is closed or its starting time is delayed due to adverse weather conditions or a health or safety threat, the district may count a partial day of attendance as a full day for State aid purposes, provided: (1) at least one hour of instruction was provided or the normal start time was delayed; and (2) the superintendent provides the Regional Superintendent or the Suburban Cook County Intermediate Service Center, whichever is appropriate, with a written report in support of the partial day within 30 days. 105 ILCS 5/18-12.

105 ILCS 5/18-12.5 governs claiming State aid if a district closes one or more schools, but not all schools, during the public health emergency, as determined by ISBE in consultation with the IDPH.

Operational Services

Administrative Procedure - Comprehensive Safety and Security Plan¹

Contents:

- A. Safety- and Security-Related Administrative Procedures and Forms**
- B. Definitions**
- C. District Safety Coordinator and Safety Team; Responsibilities**
- D. Safety Team Meetings**
- E. Annual Safety Review**
- F. School Safety Drill Plan**
- G. School Emergency Operations and Crisis Response Plan (SEOCR)**
- H. Material to be Included in Each SEOCR**
- I. Managing Communications During and About an Emergency or Crisis**
- J. Required Notices**
- K. Resources**

Attachment A – School Emergency Operations and Crisis Response Plan Format

Attachment B – Alignment of Comprehensive Safety and Security Plan with Targeted School Violence Prevention Program

A. Safety and Security Related Administrative Procedures and Forms

Administrative material on school safety and security may be implemented under this plan, including, without limitation, any in the following list.

4:60-AP3	<i>Criminal History Records Check of Contractor Employees</i>
4:110-API	<i>School Bus Post-Accident Checklist</i>
4:110-AP3	<i>School Bus Safety Rules</i>
4:110-E	<i>Emergency Medical Information for Students Having Special Needs or Medical Conditions Who Ride School Buses</i>
4:160-AP	<i>Environmental Quality of Buildings and Grounds</i>
4:170-API, E1	<i>Accident or Injury Form</i>
4:170-API, E2	<i>Memo to Staff Members Regarding Contacts by Media About a Crisis</i>
4:170-AP2	<i>Routine Communications Concerning Safety and Security</i>
4:170-AP2, E1	<i>Letter to Parents/Guardians Regarding Student Safety</i>
4:170-AP2, E2	<i>Letter to Parents/Guardians Regarding the Dangers of Underage Drinking</i>
4:170-AP2, E3	<i>Letter to Parents/Guardians About Disruptive Social Media Apps;</i>

The footnotes should be removed before the material is used.

¹ This procedure follows the recommendations in the *Guide for Developing High-Quality School Emergency Operations Plans*, produced by a collaboration of federal agencies in 2013, at www.rems.ed.gov/docs/REMS_K-12_Guide_508.pdf. The *Guide* informs schools what they *need* to do, not *what* to do. It recommends a process for developing, implementing, and continually refining a school emergency operations plan as well as a discussion of its form, function, and content.

	<i>Dangers</i>
4:170-AP2, E4	<i>Letter to Parents/Guardians About Preventing and Reducing Incidences of Sexting</i>
4:170-AP2, E5	<i>Notice to Parents/Guardians of Lockdown Drill; Opt-out</i>
4:170-AP4	<i>National Terrorism Advisory System</i>
4:170-AP5	<i>Unsafe School Choice Option</i>
4:170-AP6	<i>Plan for Responding to a Medical Emergency at a Physical Fitness Facility with an AED</i>
4:170-AP6, E1	<i>School Staff AED Notification Letter</i>
4:170-AP6, E2	<i>Notification to Staff and Parents/Guardians of CPR and AED Video</i>
4:170-AP8	<i>Movable Soccer Goal Safety</i>
4:175-AP1	<i>Criminal Offender Notification Laws; Screening</i>
4:175-AP1, E1	<i>Informing Parents/Guardians About Offender Community Notification Laws</i>
4:180-AP1	<i>School Action Steps for Pandemic Influenza or Other Virus/Disease</i>
4:180-AP2	<i>Pandemic Influenza Surveillance and Reporting</i>
4:190	<i>Targeted School Violence Prevention Program</i>
4:190-AP1	<i>Targeted School Violence Prevention Program</i>
4:190-AP1, E1	<i>Targeted School Violence Prevention Program Resources</i>
4:190-AP2	<i>Threat Assessment Team (TAT)</i>
4:190-AP2, E1	<i>Principles of Threat Assessment</i>
4:190-AP2, E2	<i>Threat Assessment Documentation</i>
4:190-AP2, E3	<i>Threat Assessment Key Areas and Questions; Examples</i>
4:190-AP2, E4	<i>Responding to Types of Threats</i>
4:190-AP2, E5	<i>Threat Assessment Case Management Strategies</i>
4:190-AP2, E6	<i>Targeted School Violence Prevention and Threat Assessment Education</i>
6:235-E4	<i>Keeping Yourself and Your Kids Safe On Social Networks</i>
6:235-E5	<i>Children's Online Privacy Protection Act</i>
7:140-AP	<i>Use of Metal Detectors and Searches for Student Safety</i>
7:140-E	<i>Letter to Parents/Guardians Regarding the Right to Privacy in the School Setting Act</i>
7:150-AP	<i>Agency and Police Interviews</i>
7:280-AP	<i>Managing Students with Communicable or Infectious Diseases</i>
7:290-AP	<i>Resource Guide for Implementation of Suicide and Depression Awareness and Prevention Program</i>

B. Definitions

*SEOCR*P is a School Emergency Operations and Crisis Response Plan² (formerly *Emergency Operations Plan*). Each school or facility has an *SEOCR*P.

First responders are local law enforcement, fire department officials, emergency medical services personnel, and any other entity in the community that provides emergency assistance.

Incident means any event or occurrence that threatens the safety and security of individuals on school property or at school events.

District Safety Coordinator is the individual who manages the District's safety and security efforts.

Safety Team is the Superintendent's administrative committee that is responsible for its respective *SEOCR*P. Each school or facility has a Safety Team.

SRO means school resource officer, defined as a law enforcement officer who has been primarily assigned to a school or school district under an agreement with a local law enforcement agency.³

C. District Safety Coordinator and Safety Team; Responsibilities

The Superintendent appoints an administrator to be the **District Safety Coordinator** to manage the District's safety and security efforts and serve as the District's spokesperson during a crisis or emergency.

The Superintendent appoints members of a **Safety Team** for each school or facility, with input from the District Safety Coordinator and each school's Building Principal. The Building Principal and SRO, if any, shall be members of the Safety Team.

The District Safety Coordinator and each school's Safety Team are responsible for developing, implementing, and maintaining a **SEOCR**P with the following objectives as explained in FEMA's *Guide for Developing High-Quality School Emergency Operations Plans (2013)*, at www.rems.ed.gov/docs/REMS_K-12_Guide_508.pdf:

- **Prevention**, meaning the capabilities needed to avoid, deter, or stop an incident. Prevention requires the use of: (a) research-based principles of safety and security, (b) an ongoing analysis of data (e.g., incident and inspection reports, complaints, suggestions), and (c) an ongoing program for identifying and evaluating unreasonable risks.
- **Protection**, meaning the capabilities needed to secure schools against violence and manmade or natural disasters. Protection focuses on ongoing actions that protect students, teachers, staff, visitors, networks, and property from a threat or hazard.
- **Mitigation**, meaning the capabilities needed to reduce the likelihood or impact of an incident or emergency. Mitigation requires, among other things, high-quality training, and instruction programs to execute and improve the *SEOCR*P.
- **Response**, meaning the capabilities needed to stabilize an incident, save lives, establish a safe and secure environment, and facilitate the transition to recovery. Effective response requires, among other things, a clear, rapid, factual, and coordinated system of internal and external communication.
- **Recovery**, meaning the capabilities needed to restore the learning environment.

The footnotes should be removed before the material is used.

² The term *emergency operations and crisis response plan* is used because federal agencies refer to school *emergency operations plans*, and the School Safety Drill Act (105 ILCS 128/) refers to *emergency and crisis response plans*.

³ 105 ILCS 5/10-20.68.

D. Safety Team Meetings

The District Safety Coordinator chairs the Safety Team meetings. The meetings are held as determined by the District Safety Coordinator. **At least once annually, the Safety Team shall request the participation of first responders and the Board Attorney in a meeting to review and provide input.** The following matters are suggested agenda items:

- Review the agenda and determine who will take meeting notes.
- Review the notes from the previous meeting.
- Discuss the status of previously submitted recommendations.
- Receive, review, and discuss individual and Safety Team committee reports and recommendations concerning one or more items below.
 1. Safety and security data from incidents, investigations, audits, etc.
 2. Recommendations received from stakeholders and first responders
 3. Emerging issues
 4. Status of the SEOCRCP
 5. Status of the safety and security communication system
 6. Status of training programs
 7. Status of programs to build awareness of, and support for, the SEOCRCP (contests, posters, drives, etc.)
- Clarify information and recommendations for a report to the Superintendent.
- Confirm the Safety Team meeting schedule and review upcoming meeting dates.

E. Annual Safety Review

The District Safety Coordinator facilitates the annual safety review meeting conducted by the School Board or its designee, as required by 105 ILCS 128/25, amended by P.A. 102-395, and 128/30. During the annual safety review, the law requires the School Board or its designee to “review each school building’s emergency and crisis response plans, protocols, and procedures, including procedures regarding the District’s threat assessment team, the efficacy and effects of law enforcement drills, and each building’s compliance with the school safety drill programs.” If the school board uses a designee, it should preferably be someone other than the District Safety Coordinator to assure an unbiased audit. The District Safety Coordinator assists the Board or its designee to comply with annual review requirements, including without limitation, the completion of a report certifying that the review took place. See the Ill. State Board of Education (ISBE) website for an annual review checklist and report at: www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx. The Open Meetings Act (OMA) allows the Board to enter closed session to discuss security procedures, school building safety and security, and the use of personnel and equipment to respond to an actual, a threatened, or a reasonably potential danger to the safety of employees, students, staff, the public, or public property. 5 ILCS 120/2(c)(8). Consult the Board Attorney for assistance with this OMA exception.

F. School Safety Drill Plan

The School Safety Drill Act (105 ILCS 128/, amended by P.A.s 102-395, 102-791, 103-104, eff. 1-1-24, and 103-197, eff. 1-1-24) and any implementing State administrative rules shall supersede this procedure in the event of a conflict.

The Building Principal shall keep the Superintendent or designee informed of when drills are scheduled and/or accomplished. ISBE’s fillable *School Drill Documentation* form for

documenting the completion of minimum drill requirements may be used (see www.isbe.net/Documents/91-02_school_drill_documentation.pdf).

Each academic year, each school building that houses students must conduct a minimum of:

1. **Three school evacuation drills.** These drills prepare students and personnel for situations that occur when conditions outside of a school building are safer than inside a school building. Evacuation may be necessary depending on the circumstances. They may include a fire, suspicious item or person, or incident involving a hazardous material, including but not limited to a chemical, incendiary, explosive, and bomb threat.

One of the three school evacuation drills requires the participation of the appropriate local fire department, unless waived as provided below. A date is selected according to the following timeline:

- No later than **September 1** of each year, the local fire department or fire district must contact the Building Principal in order to make arrangements.
- No later than **September 14** of each year, the Building Principal or designee and the local fire department or fire district may agree to waive the provisions concerning participation by the local fire department in a school evacuation drill.
- No later than **September 15** of each year, each Building Principal or designee must contact the responding local fire official and propose to the local fire official four dates within the month of October, during at least two different weeks of October, on which to hold the drill. The fire official may choose any of the four available dates, and if he or she does so, the drill occurs on that date.
- Alternatively, the Building Principal or designee and the local fire official may, by mutual agreement, set any other date for the drill, including a date outside of the month of October.
- If the fire official does not select one of the four offered dates in October or set another date by mutual agreement, the school does not need to include the local fire service in one of its mandatory school evacuation drills.

After a drill in which the local fire service participated, the Building Principal should request certification from the local fire service that the school evacuation drill was conducted. Additional school evacuation drills for fire incidents may involve the participation of the appropriate local fire department. In addition, schools may conduct additional school evacuation drills to account for other evacuation incidents, including without limitation, suspicious items or bomb threats.

2. **One school bus evacuation drill.** This drill prepares students and school personnel for situations that occur when conditions outside of the bus are safer than inside the bus. Evacuation may be necessary, depending on the circumstances, in the event of a fire, suspicious items, and incidents involving hazardous materials. Schools may conduct additional bus evacuation drills.

In addition, instruction on safe bus riding practices should be provided for all students. See 4:110-AP3, *School Bus Safety Rules*.

3. **One severe weather and shelter-in-place drill.** This drill prepares students for situations involving severe weather emergencies or the release of external gas or chemicals. Severe weather and shelter-in-place drills must address and prepare students and school personnel for possible tornado incidents. Other drills shall be based on the needs and environment of particular communities, including severe weather (such as

tornadoes, wind shears, lightning, and earthquakes), incidents involving hazardous materials, and incidents involving weapons of mass destruction.

4. **One law enforcement lockdown drill.**⁴ This drill addresses a school shooting incident and evaluates the preparedness of school personnel and students for situations calling for the involvement of law enforcement when there is an active threat or an active shooter within a school building. A law enforcement lockdown drill must occur no later than 90 days after the first day of each school year. This drill must be conducted: (a) according to the District's emergency operations and crisis response plan(s), (b) on days and times when students are normally present in the school building, and (c) with the participation of all school personnel and students present at school at the time of the drill, except for those exempted at the discretion of administrators or school support personnel. The appropriate local law enforcement agency must observe administration of the drill.

Schools must notify parents/guardians in advance of any lockdown drill that involves student participation, and must allow parents/guardians to exempt their child from participating for any reason. The District may, at its discretion, exempt a student from participating in a lockdown drill. 105 ILCS 128/20(c)(4), added by P.A. 102-395. When deciding whether to exempt a student, the District must include the student's individualized education program team or 504 plan team, if any, in the decision. 105 ILCS 128/20(c)(4), amended by P.A. 103-197, eff. 1-1-24. For students who do not participate in the lockdown drill, districts must provide alternative safety education and instruction related to an active threat or active shooter event. For students who do participate in the lockdown drill, districts must allow them to ask questions related to it. See 4:170-AP2, E5, *Notice to Parent/Guardian of Lockdown Drill; Opt-out*. In addition, a law enforcement lockdown drill must meet each of the following criteria:

- During each calendar year, the appropriate local law enforcement agency contacts the Building Principal to request participation in the law enforcement lockdown drill. The Building Principal and the local law enforcement agency shall set, by mutual agreement, a date for the drill.
- The lockdown drill involves the onsite participation of the local law enforcement agency, provided that an agreeable date can be reached between the Building Principal and the local law enforcement agency. If the parties cannot reach an agreeable date, the school shall hold the drill without participation from the local law enforcement agency.
- After a drill in which local law enforcement participated, the Building Principal should request a certification from local law enforcement that the law enforcement lockdown drill was conducted. The local law enforcement agency shall also notify the school of any deficiencies noted during the drill.
- The lockdown drill cannot include any simulations that mimic an actual school shooting incident or active shooter event. Law enforcement may only run an active shooter simulation, including simulated gun fire drills, on school days when students are not present.
- All lockdown drills must be announced in advance to all school personnel and students prior to the commencement of the drill.

The footnotes should be removed before the material is used.

⁴ 105 ILCS 128/20(c), amended by P.A. 102-395. While 105 ILCS 128/20(c) uses both *lockdown drill* and *walk-through lockdown drill*, the terms are synonymous. For brevity, this material uses the term *lockdown drill*.

- Lockdown drill content must be age and developmentally appropriate, and must include trauma-informed approaches to address the concerns and well-being of school personnel.
- Lockdown drills must include and involve school personnel, including school-based mental health professionals.

The District Safety Coordinator, in cooperation with the Building Principal, shall encourage local law enforcement agencies to establish a school walk-through program. This program encourages local law enforcement officials to walk through school properties during their patrols with the goal of increasing security (school districts are encouraged, but not mandated, to do this by House Resolution 153 (98th General Assembly, 2013)).

G. School Emergency Operations and Crisis Response Plan (SEOCR)

Each Safety Team shall develop, implement, and maintain a SEOCR using the process below, as explained in FEMA's *Guide for Developing High-Quality School Emergency Operations Plans* (2013), at: www.rems.ed.gov/docs/REMS_K-12_Guide_508.pdf:

1. Develop a schedule and invite the participation of first responders.
2. Identify threats and hazards, assess risks, and prioritize threats and hazards.
3. Determine goals and objectives.
4. Develop, review, evaluate, and maintain the SEOCR.
5. Share the SEOCR with stakeholders and train them. This includes, without limitation, having the SEOCR accessible in a digital format.

Each SEOCR shall include a plan for local law enforcement to rapidly enter a school building in an emergency. 105 ILCS 128/50 (final citation pending), added by P.A. 103-194, eff. 1-1-24.

Each SEOCR shall be in the format suggested by and explained in FEMA's *Guide for Developing High-Quality School Emergency Operations Plans* (2013), at www.rems.ed.gov/docs/REMS_K-12_Guide_508.pdf. See also *The Role of Districts in Developing High-Quality School Emergency Operations Plans: A Companion to the School Guide* (2019), at: https://rems.ed.gov/docs/District_Guide_508C.pdf; and the **Attachment** to this procedure.

H. Material to be Included in Each SEOCR

Each school Safety Team annually gathers and/or renews the following material for inclusion in the SEOCR:

1. District-level Targeted School Violence Prevention Plan. See Board policy 4:190, *Targeted School Violence Prevention Program*, and 4:190-AP1, *Targeted School Violence Prevention Program*.
2. Building-level Threat Assessment Team procedures. See 4:190-AP2, *Threat Assessment Team (TAT)*.
3. Building evacuation protocol. The Building Principal or designee shall: (a) keep a comprehensive evacuation map - describing main and alternate routes - in the main office, (b) post signs containing main and alternate evacuation routes for each occupied area in a conspicuous place, preferably near the exit, (c) prepare evacuation plans for outdoor areas (playgrounds and stadiums), and (d) keep all staff informed of the evacuation plans.

4. Documents concerning safety drills. The Building Principal shall schedule, execute, and document safety drills as per the School Safety Drill Act (105 ILCS 128/, amended by P.A.s 102-395, 102-791, 103-104, eff. 1-1-24, and 103-197, eff. 1-1-24) and this procedure.
5. Maps and layouts, including: (a) campus map, (b) building floor plan, (c) location of first aid kits, AEDs, fire extinguishers, and any trauma kits (105 ILCS 5/10-20.85, added by P.A. 103-128), and (d) map or plan describing the areas to be used in the event of an emergency or crisis for triage, emergency helicopter landing, media center, non-victim students, and parents/guardians. The Safety Team or Principal shall annually give a copy of these to first responders.
6. A protocol to secure a list of people present in the building at any time.
7. Tornado response plan, including a map showing tornado wall locations (105 ILCS 128/25).
8. Carbon monoxide alarm or detector activation plans, protocols, and procedures (105 ILCS 5/10-20.57 and 430 ILCS 135/).
9. The safety equipment's maintenance schedule and the person(s) responsible.
10. An emergency early dismissal protocol.
11. A plan for inviting warnings or tips, e.g., a hotline or website for individuals to make anonymous tips.
12. A protocol for student supervision in the event of an emergency or crisis.
13. A safety patrol plan (105 ILCS 5/10-22.28).
14. Bicycle use rules.
15. Roadway and parking rules.
16. Procedures on student and staff illness and injuries at school and school events (23 Ill.Admin.Code §1.530(c)).
17. A plan for giving students instructions on safe school bus riding practices, including the operation and use of emergency doors and windows (as a means of escape), seat belts, and fire extinguisher (105 ILCS 128/20(b)). The District's parent-teacher advisory committee, in cooperation with school bus personnel, establishes and maintains bus safety rules (105 ILCS 5/10-20.14). See 4:110-AP3, *School Bus Safety Rules*.
18. Safety and security related administrative material. See section A, above.
19. The location of any door security locking means and the use of the locking and unlocking means from within and outside the room(s) (105 ILCS 5/10-20.72, renumbered by P.A. 102-558).
20. Other documents identified by the Safety Team.

I. Managing Communications During and About an Emergency or Crisis

The District Safety Coordinator, with assistance from the Safety Team, is responsible for compiling information and preparing communications concerning an emergency or crisis. The District Safety Coordinator serves as the spokesperson during a crisis or emergency. All District communications should come from this source to ensure accuracy, creditability, and compliance with laws granting confidentiality to student records.

The spokesperson shall follow best practices for spokespersons during an emergency or crisis and receive training on public relations. The Board Attorney serves as a resource to the spokesperson. The objective is:

- To provide the maximum amount of verified information to staff members, students' family members, and the media as quickly as possible,
- While simultaneously respecting student privacy and complying with laws granting confidentiality to student records (Ill. School Student Records Act, 105 ILCS 10/; Family Educational Rights and Privacy Act, 20 U.S.C. §1232g). See 7:340-AP1, *School Student Records*.

All staff members are requested to refrain from spreading information about an emergency or crisis unless the information is from the District Safety Coordinator. All inquiries should be directed to the spokesperson.

Everyone in the school community can positively affect an emergency or crisis situation by:

1. Avoiding speculation as to the cause.
2. Avoiding allocation of blame.
3. Helping school and law enforcement officials gather the facts.
4. Sticking to the facts during discussions.
5. Deferring all media requests to the spokesperson.
6. Comforting and supporting each other.

J. Required Notices

A school staff member shall immediately notify the Building Principal when he or she:

1. Observes any person in possession of a firearm on or around school grounds; however, such action may be delayed if immediate notice would endanger students under his or her supervision. 105 ILCS 5/10-27.1A(a).
2. Observes or has reason to suspect that any person on school grounds is or was involved in a drug-related incident. 105 ILCS 5/10-27.1B.
3. Observes a battery committed against any staff member or is subject to a battery. 105 ILCS 5/10-21.7, amended by P.A. 102-894.

Upon receiving a report of No. 1, above, the Building Principal or designee shall immediately notify local law enforcement. 105 ILCS 5/10-27.1A(b), 5/10-27.1B, and 5/10-21.7. In addition, upon receiving a report on any of the above Nos. 1-3, the Building Principal or designee must notify the Superintendent or designee and any involved student's parent/guardian.⁵ See the **Required Notices** subhead of policy 7:190, *Student Behavior*, and 3:60-E, *Event Reporting and Notice Requirements for Building Principals Concerning School Safety and Security*.

Upon receiving a report of any of the above Nos. 1-3, the Superintendent or designee shall immediately notify local law enforcement. 105 ILCS 5/10-27.1A(c), amended by P.A. 103-34, 5/10-27.1B(b), and 5/10-21.7. The Superintendent or designee will also report incidents involving battery against staff members to ISBE through its web-based School Incident Reporting System (SIRS) as they occur during the year and no later than August 1 for the preceding school year. 105 ILCS 5/10-21.7, amended by P.A. 102-894. SIRS is available at www.isbe.net/Pages/School-

The footnotes should be removed before the material is used.

⁵ The building principal must notify the student's parent/guardian only when the alleged offense is firearm possession. 105 ILCS 5/27.1A(b). The **Required Notices** subhead of sample policy 7:190, *Student Behavior*, expands this notification duty to include drug-related incidents and battery of a staff member. See f/n 56 in sample policy 7:190, *Student Behavior*. If your board has not expanded this notification duty in policy 7:190, *Student Behavior*, amend the second sentence as follows:

In addition, upon receiving a report on any of the above Nos. 1-3, the Building Principal or designee must notify the Superintendent or designee and, if a student is reportedly in possession of a firearm, also any involved student's parent/guardian.

[Incident-Reporting-System.aspx](#) or by going to ISBE's home page and accessing the District's Web Application Security (IWAS) account. Reporting on SIRS does not satisfy the requirement to report incidents to local law enforcement authorities.

K. Resources

Guide for Developing High-Quality School Emergency Operations Plans: At a Glance
www.rems.ed.gov/K12GuideForDevelHQSchool.aspx

Guide for Developing High-Quality School Emergency Operations Plans
www.rems.ed.gov/docs/REMS_K-12_Guide_508.pdf

The Role of Districts in Developing High-Quality School Emergency Operations Plans: A Companion to the School Guide https://rems.ed.gov/docs/District_Guide_508C.pdf

Readiness and Emergency Management for Schools (REMS) Technical Assistance (TA) Center Tool Box www.rems.ed.gov/toolbox.aspx

ALICE (Alert, Lockdown, Inform, Counter, Evacuate) Training Institute www.alicetraining.com

ISBE/OSFM All Hazard Preparedness Guide for Illinois Schools www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx

Illinois Emergency Management Agency (IEMA) www2.illinois.gov/ready/Pages/default.aspx

Schools/Campus – Resources, including School Safety Information Sharing
<https://ready.illinois.gov/plan/schools.html>

Safe2Help Illinois, designed to offer students a safe, confidential way in which to share information that might help prevent suicides, bullying, school violence, or other threats to school safety, www.safe2helpil.com/

Illinois Terrorism Task Force (ITTF) <https://ready.illinois.gov/hazards/terrorism.html>

National Association of School Psychologists (NASP) - Recommendations for Comprehensive School Safety and Crisis Policies www.nasponline.org/resources-and-publications/resources-and-podcasts/school-safety-and-crisis

U.S. Secret Service (USSS) National Threat Assessment Center (NTAC)
www.secretservice.gov/protection/ntac

Improving School Safety Through Bystander Reporting: A Toolkit for Strengthening K-12 Reporting Programs, developed by the USSS NTAC and the Cybersecurity and Infrastructure Security Agency (CISA) www.secretservice.gov/sites/default/files/reports/2023-05/cisa-uss-s-k-12-bystander-reporting-toolkit-508_final_0.pdf

Bomb Threat Response Planning Tool, developed by the U.S. Dept. of Justice's Bureau of Alcohol, Tobacco, Firearms and Explosives and the U.S. Dept. of Education's Office of Safe and Drug Free Schools www.ojp.gov/ncjrs/virtual-library/abstracts/bomb-threat-response-interactive-planning-tool-schools-cd-rom

School Crisis Guide - Help and Healing in a Time of Crisis, published by NEA Health Information Network www.nea.org/resource-library/neas-school-crisis-guide

Attachment A
School Emergency Operations and Crisis Response Plan Format

Basic Plan

- | | |
|--|--|
| 1. Introductory Material | 3. Concept of Operations |
| 1.1 Promulgation Document and Signatures | 4. Organization and Assignment of Responsibilities |
| 1.2 Approval and Implementation | 5. Direction, Control, and Coordination |
| 1.3 Record of Changes | 6. Information Collection, Analysis, and Dissemination |
| 1.4 Record of Distribution | 7. Training and Exercises |
| 1.5 Table of Contents | 8. Administration, Finance, and Logistics |
| 2. Purpose, Scope, Situation Overview, and Assumptions | 9. Plan Development and Maintenance |
| 2.1 Purpose | 10. Authorities and References |
| 2.2 Scope | |
| 2.3 Situation Overview | |
| 2.4 Planning Assumptions | |

Functional Annexes

Note: This is not a complete list, but it is recommended that all SEOCRPs include at least the following functional annexes:

- | | |
|-------------------------------|------------------------------------|
| 1. Communications | 6. Reunification |
| 2. Evacuation | 7. Continuity of Operations (COOP) |
| 3. Shelter-in-Place | 8. Security |
| 4. Lockdown | 9. Recovery |
| 5. Accounting for All Persons | 10. Health and Medical |

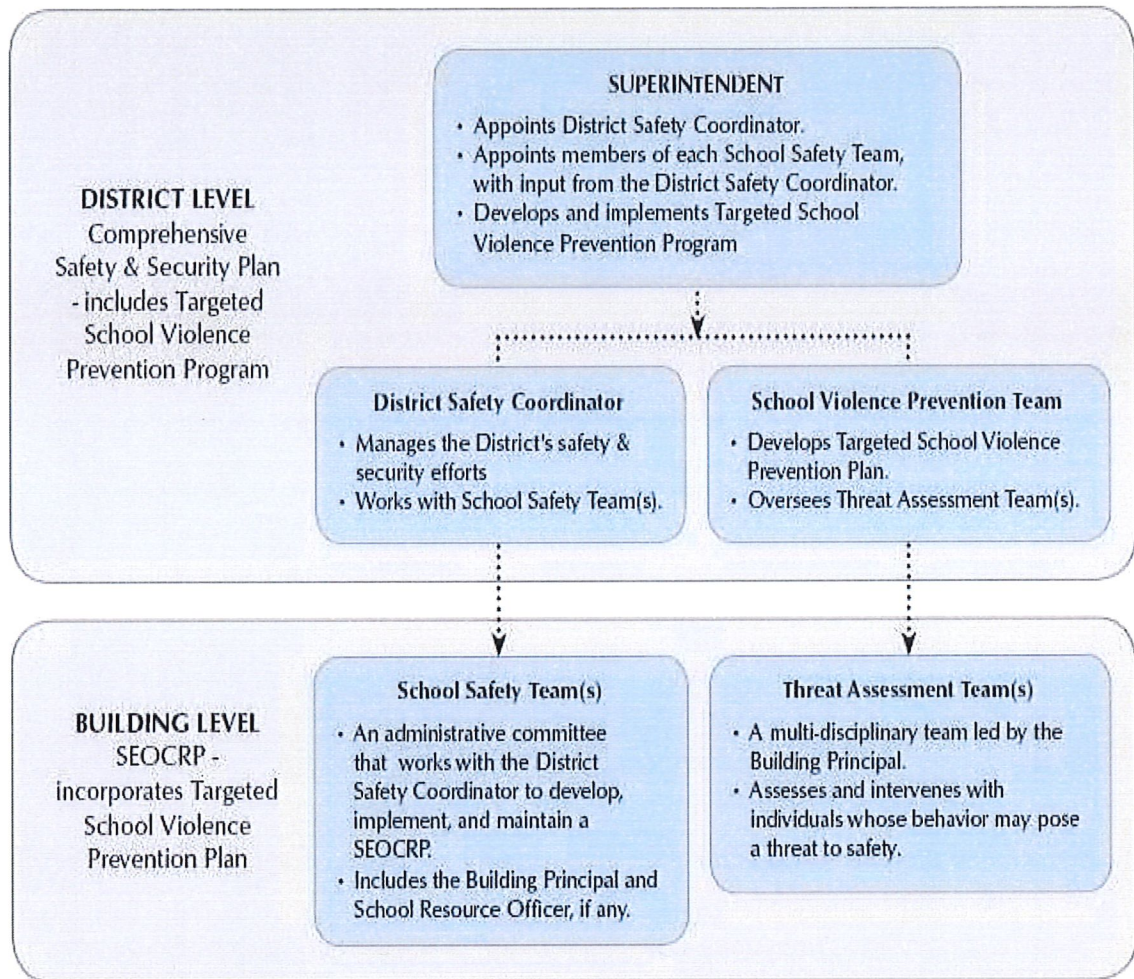
Threat- or Hazard-Specific Annexes

Note: This is not a complete list. Each school's annexes will vary based on its hazard analysis.

- | | |
|---------------------------------|---------------------------------|
| 1. Hurricane or Severe Storm | 5. Mass Casualty Incident |
| 2. Earthquake | 6. Active Shooter |
| 3. Tornado | 7. Pandemic or Disease Outbreak |
| 4. Hazardous Materials Incident | |

Attachment B

Alignment of Comprehensive Safety and Security Plan with Targeted School Violence Prevention Program



General Personnel

Administrative Procedure - Coordination with Children's Advocacy Center¹

Children's Advocacy Centers (CACs) are child-focused, trauma-informed, facility-based programs that provide a multi-disciplinary, comprehensive response to child abuse. Illinois CACs are organized and operate under the Children's Advocacy Center Act, 55 ILCS 80/. CACs are accredited based on standards set by the National Children's Alliance, 55 ILCS 80/2.5. See www.nationalchildrensalliance.org/.

If the District is located within a county that is served by an accredited CAC, it must coordinate with the CAC to implement the **Alleged Incidents of Sexual Abuse; Investigations** subhead of Board policy 5:90, *Abused and Neglected Child Reporting*, 105 ILCS 5/22-85. For a map of accredited CACs, and to identify a CAC that may serve the District, see www.childrensadvocacycentersofillinois.org/about/map. Use this procedure to coordinate with the District's local CAC.

Glossary of Terms

Alleged incident of sexual abuse - An incident of sexual abuse of a child (as defined in the Ill. Criminal Code of 2012, 720 ILCS 5/11-9.1A) that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred either: on school grounds during a school activity, outside of school grounds, or not during a school activity. 105 ILCS 5/22-85(b).²

Alleged victim - A student who is alleged to be the victim of an alleged incident of sexual abuse.

Appropriate law enforcement agency - A law enforcement agency whose employees have been involved, in some capacity, with an investigation of a particular alleged incident of sexual abuse. 105 ILCS 5/22-85(b).

Child advocate - May be a school social worker, a school or equally-qualified psychologist, or a person in a position the Ill. State Board of Education (ISBE) has identified as an appropriate advocate for a student during a school's investigation into an alleged incident of sexual abuse. 105 ILCS 5/22-85(i).

Forensic interview - An interview between a trained forensic interviewer, as defined by National Children's Alliance standards, and a child in which the interviewer obtains information from children in an unbiased and fact finding manner that is developmentally appropriate and culturally sensitive to support accurate and fair decision making by the multidisciplinary team in the criminal justice and child protection systems. 55 ILCS 80/2.5.

School personnel - School employees, vendors, and volunteers.

Sexual Abuse and Sexual Assault - See Ill. Criminal Code of 2012 definitions at:

720 ILCS 5/11-9.1A. Permitting sexual abuse of a child.

720 ILCS 5/11-1.20. Criminal sexual assault.

The footnotes should be removed before the material is used.

¹ This procedure cites the minimum requirements of State law. Modify this procedure based upon the District's specific implementation needs and any additional needs of the CAC that serves the District.

² See the f/n 15 analysis in sample policy 5:90, *Abused and Neglected Child Reporting*. To provide boards with clarity, this procedure uses the definition of *sexual abuse* from the Ill. Criminal Code of 2012.

720 ILCS 5/11-1.30. Aggravated criminal sexual assault.
 720 ILCS 5/11-1.40. Predatory criminal sexual assault of a child.
 720 ILCS 5/11-1.50. Criminal sexual abuse.
 720 ILCS 5/11-1.60. Aggravated criminal sexual abuse.

Coordination with CAC

Actor	Action
ISBE	Identifies persons in positions who may be appropriate child advocates for students during a school's investigation into an alleged incident of sexual abuse. As of March 2023, ISBE has not identified any persons.
Superintendent or designee	<p>Establishes a CAC Communication Committee (Committee) to operate as a Superintendent committee. See 2:150-AP, <i>Superintendent Committees. Consider</i> including:</p> <ul style="list-style-type: none"> • District Nondiscrimination Coordinator (see 2:260, <i>Uniform Grievance Procedure</i>; and 2:265, <i>Title IX Sexual Harassment Grievance Procedure</i>) • District Safety Coordinator (see 4:170-AP1, <i>Comprehensive Safety and Security Plan, Part C, District Safety Coordinator and Safety Team; Responsibilities</i>) • District-level administrators • Building Principals (Building Principals are mandatory for successful implementation of the Alleged Incidents of Sexual Abuse; Investigations subhead of policy 5:90, <i>Abused and Neglected Child Reporting</i>) • School personnel • Employees from the accredited CAC that serves the District <p>Chairs and convenes Committee meetings for the purpose of implementing the Alleged Incidents of Sexual Abuse; Investigations subhead of policy 5:90, <i>Abused and Neglected Child Reporting</i>.</p> <p>Note: To achieve the minimum requirement of State law that the District coordinate with its local CAC, this procedure establishes an administrative committee. Establishing a committee provides a best practice for aligning with governance principles and examining implementation issues specific to each individual school district and the CACs that serve each district. While smaller school districts, e.g., one-building districts, may be able to implement a program through one meeting, larger school districts will likely require the uniform coordination this Committee provides.</p> <p>Informs the School Board of the Committee's progress and needs by adding information items to the Board's agendas as needed.</p> <p>Ensures that at least every two years, school personnel are trained to understand, provide information and referrals to, and address issues pertaining to students who are parents, expectant parents, or victims of domestic or sexual violence. Note: 105 ILCS 5/10-22.39(b-25), added by P.A. 103-542, eff. 1-1-24 and operative 7-1-24, requires this training to be conducted by persons with expertise in domestic and sexual violence</p>

Actor	Action
	<p>and the needs of expectant and parenting students and must include training concerning each of the following:</p> <ol style="list-style-type: none"> 1. Communicating with and listening to student victims of domestic or sexual violence and expectant and parenting students. 2. Connecting student victims of domestic or sexual violence and expectant and parenting students to appropriate in-school services and other agencies, programs, and services as needed. 3. Implementing the school district's policies, procedures, and protocols with regard to such students, including confidentiality. At a minimum, school personnel must be trained to understand, provide information and referrals, and address issues pertaining to such students. 4. Procedures for responding to incidents of teen dating violence that take place at school, on school grounds, at school-sponsored activities, or in vehicles used for school-provided transportation as outlined in 105 ILCS 110/3.10.
School Personnel	<p>Upon suspecting or receiving knowledge of an alleged incident of sexual abuse, shall perform each of the following (105 ILCS 5/22-85(c)):</p> <ol style="list-style-type: none"> 1. Immediately report to the Ill. Dept. of Children and Family Services (DCFS) on its Child Abuse Hotline 1-800-25-ABUSE (1-800-252-2873 (within Illinois); 1-217-524-2606 (outside Illinois); or 1-800-358-5117 (TTY). 2. Follow directions given by DCFS concerning filing a written report within 48 hours with the nearest DCFS field office. 25 ILCS 5/7. The written report shall include, if known, each of the following: The name and address of the child, his or her parents/guardians, or other persons having custody; The child's age; The child's condition, including any evidence of previous injuries or disabilities; and Any other information that the reporter believes may be helpful to DCFS for its investigation. 3. Promptly notify the Superintendent or Building Principal that a report has been made.
Superintendent or Building Principal	<p>Immediately coordinates any necessary notifications to the student's parents/guardians with DCFS, the applicable school resource officer (SRO), and/or local law enforcement which includes the local State's Attorney's Office.³</p> <p>Notifies the District's Nondiscrimination Coordinator of the reported alleged incident of sexual abuse.</p>

The footnotes should be removed before the material is used.

³ This sentence implements optional language from sample policy 5:90, *Abused and Neglected Child Reporting*, and should be deleted if the board's adopted policy does not contain it.

Actor	Action
DCFS and/or Appropriate Law Enforcement Agency	<p>Determines whether to accept a reported alleged incident of sexual abuse for investigation. If a reported alleged incident is accepted, refers the matter to the CAC serving the District. 105 ILCS 5/22-85(d).</p> <p>Note: If neither DCFS nor law enforcement investigate the alleged incident of sexual abuse, the District can move forward with its own investigation without CAC involvement.</p>
CAC	<p>Coordinates the investigation of the alleged incident of sexual abuse in accordance with its existing multidisciplinary team protocol and National Children's Alliance accreditation standards. 105 ILCS 5/22-85(e)(1).</p> <p>Facilitates communication between the DCFS/law enforcement multidisciplinary team investigating the alleged incident of sexual abuse and the District's Nondiscrimination Coordinator.⁴ At a minimum:</p> <ol style="list-style-type: none"> 1. Ensures that all applicable parties have each other's contact information; and 2. Shares the CAC's protocol regarding the process of approving the viewing of a forensic interview by school personnel, and a contact person for questions regarding the protocol. 105 ILCS 5/22-85(e)(2).
Nondiscrimination Coordinator	<p>Upon being notified of the reported alleged incident of sexual abuse by the Superintendent or Building Principal, shall:</p> <p>Open and conduct the District's investigation into the alleged incident of sexual abuse in accordance with policy 7:20, <i>Harassment of Students Prohibited</i>.</p> <p>Schedule regular follow-up calls to the CAC to inquire whether DCFS/law enforcement has opened an investigation into the alleged incident of sexual abuse.</p> <p>If DCFS/law enforcement investigation is not opened, stops using this procedure and continues the District's investigation in accordance with policy 7:20, <i>Harassment of Students Prohibited</i>.</p> <p>If DCFS/law enforcement investigation is opened, continues with the following steps.</p> <p>Notes the date DCFS/law enforcement opened its investigation and sets a reminder for 15 calendar days after it.</p> <p>Note: This time period is important because the CAC has 15 calendar days to conduct a forensic interview of the alleged victim. During this time, the District is cannot interview the alleged victim regarding the alleged incident.</p> <p>While the child abuse and/or criminal investigations related to the alleged incident of sexual abuse are being conducted by DCFS/law enforcement,</p>

The footnotes should be removed before the material is used.

⁴ Throughout this procedure "Nondiscrimination Coordinator" may be replaced with Title IX Coordinator or designee, Complaint Manager, School Resource Officer, or the title of any other school personnel leading the school's investigation into the alleged incident of sexual abuse.

Actor	Action
	<p>the Nondiscrimination Coordinator:</p> <p>Continues the District's investigation, which may include interviewing the alleged witnesses and/or the alleged perpetrator.</p> <p>May request information from the alleged victim or his or her parent/guardian to ensure his or her safety and well-being at school during the investigations. 105 ILCS 5/22-85(f).</p> <p>Refrains from interviewing the alleged victim until after the CAC completes its forensic interview. 105 ILCS 5/22-85(f). ⁵</p> <p>Upon request, must inform DCFS/law enforcement investigators of any evidence it has gathered, as permitted by federal or State law. 105 ILCS 5/22-85(f).</p> <p>Note: Evidence gathered by the Nondiscrimination Coordinator during the District's investigation may be confidential under the Illinois School Student Records Act (105 ILCS 10/) and the Family Rights and Educational Privacy Act (20 U.S.C. §1232g). Consult the Board Attorney regarding what disclosures, if any, are allowed in response to a request from DCFS and/or law enforcement and conditions that must be met prior to disclosure.</p> <p>Schedule regular follow-up calls with the CAC to inquire about the status of the forensic interview of the alleged victim.</p>
CAC	<p>Informs the Nondiscrimination Coordinator that:</p> <ol style="list-style-type: none"> 1. The forensic interview of the alleged victim is complete, and the electronic recording of the forensic interview may be viewed; or 2. The CAC determined a forensic interview will not be conducted. 105 ILCS 5/22-85(g), (h).
Nondiscrimination Coordinator	<p>If the electronic recording of the forensic interview of the alleged victim is available for viewing:</p> <ol style="list-style-type: none"> 1. Verifies the CAC has obtained informed consent from an alleged victim over the age of 13 or the alleged victim's parent/guardian for school personnel to view the forensic interview (105 ILCS 5/22-85(h); and <p>Note: Each CAC may have its own consent form. Contact your local CAC to confirm that it will obtain written consent from the alleged victim over the age of 13 or the alleged victim's parent/guardian (if under the age of 13).</p> <ol style="list-style-type: none"> 2. Views the electronic recording of the forensic interview. <p>If the CAC has not performed a forensic interview of the alleged victim</p>

The footnotes should be removed before the material is used.

⁵ The purpose of waiting to interview and coordinating with CACs is to minimize trauma of an alleged victim by preventing multiple interviews of him/her regarding the alleged incident of sexual abuse. When a DCFS/law enforcement investigation is pending, then the CAC's forensic interview serves as the interview that other entities, e.g., school districts, may use by viewing or listening to it for their investigations. If a DCFS/law enforcement investigation is pending but the CAC does not conduct a forensic interview, then the school may conduct its own interview of the alleged victim after following the procedures outlined in this procedure.

Actor	Action
	within 15 calendar days after DCFS/law enforcement opens an investigation, notifies the CAC that the District intends to interview the alleged victim.
CAC	After receiving notification that the District intends to interview the alleged victim, has 10 additional calendar days to conduct a forensic interview. 105 ILCS 5/22-85(g).
Nondiscrimination Coordinator	<p>If the CAC does not conduct a forensic interview of the alleged victim within the 10 additional calendar days, proceeds with the District's interview of the alleged victim. <u>Id.</u></p> <p>If the alleged victim is under 18 years old, makes a child advocate available to the alleged victim and allows the child advocate to be present during the interview. A child advocate may be a school social worker, a school or equally qualified psychologist, or a person in a position that ISBE has identified as an appropriate advocate for a student during a school's investigation into an alleged incident of sexual abuse. 105 ILCS 5/22-85(i).</p> <p>Schedules regular follow-up calls to DCFS/law enforcement to inquire if the investigation of an incident has been suspended and/or is complete, including the outcome of the investigation. 105 ILCS 5/22-85(j), (k).</p>

General Personnel

Hiring Process and Criteria ¹

The District hires the most qualified personnel consistent with budget and staffing requirements and in compliance with School Board policy on equal employment opportunity and minority recruitment.² The Superintendent is responsible for recruiting personnel and making hiring recommendations to the Board.³ If the Superintendent's recommendation is rejected, the Superintendent must submit

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

² See sample policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. Districts may not classify a job as either a *male* or *female* job. 29 C.F.R. §1604.5, 34 C.F.R. §106.55.

105 ILCS 5/22-95, amended by PA 103-46, eff. 1-1-24, requires school districts, when hiring or assigning educators for physical education, music, or visual arts, to prioritize the hiring or assigning of educators who hold an educator license and endorsement in those areas.

³ Boards must consider the superintendent's recommendations concerning, among other things, "the selection, retention, and dismissal of employees." 105 ILCS 5/10-16.7. The board may want to use this alternative sentence:

All personnel decisions are made by the Board, but only on the recommendation of the Superintendent.

A board that fills a "new or vacant teaching position" must select a candidate based on: (1) certifications, (2) qualifications, (3) merit and ability (including performance evaluation, if available), and (4) relevant experience, provided that the length of continuing service with the district must not be considered a factor, unless all other factors are determined by the school district to be equal. 105 ILCS 5/24-1.5. The statute does not define "new or vacant teaching positions." The requirement does not apply to filling vacant positions under 105 ILCS 5/24-12 (reduction in force and recall). Consult the board attorney about these issues.

The Equal Pay Act of 2003, 820 ILCS 112/10(b-25), added by P.A. 103-539, eff. 1-1-25, makes it unlawful for employers with 15 or more employees to fail to include the "pay scale and benefits" for a position in any specific job posting. "Pay scale and benefits" means the wage or salary, or the wage or salary range, and a general description of benefits and other compensation. *Id.* at 112/5, amended by P.A. 103-539, eff. 1-1-25. To satisfy the posting requirement, an employer can include a hyperlink to a public webpage that includes the pay scale and benefit information. *Id.* at 112/10(b-25), added by P.A. 103-539, eff. 1-1-25. If an employer uses a third party to post its job postings, then the employer must provide the pay scale and benefits or a hyperlink containing the information to the third party. *Id.* The Act also requires employers to inform current employees of promotion opportunities within 14 calendar days after the employer posts externally for the position. *Id.* Employers are not prohibited from asking applicants about their wage or salary expectations for a position. *Id.*

another.⁴ No individual will be employed who has been convicted of a criminal offense listed in 105 ILCS 5/21B-80(c).⁵

All applicants must complete a District application in order to be considered for employment.⁶

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

⁴ An additional optional sentence follows:

The Superintendent may select personnel on a short-term basis for a specific project or emergency condition before the Board's approval.

⁵ 775 ILCS 5/2-103.1 prohibits employers from using conviction records as a basis to refuse to hire or to take any adverse action against an applicant or employee unless: (1) otherwise authorized by law; (2) there is a *substantial relationship* between the criminal offense and the employment sought; or (3) granting the employment would involve an unreasonable risk to property or to the safety or welfare of specific individuals or the general public. For the disqualifying offenses listed in 105 ILCS 5/21B-80, amended by P.A. 102-552, a district does not have to show a *substantial relationship* between the offense and the position or that hiring or continuing to employ the person would involve an unreasonable risk. However, the Ill. Dept. of Human Rights (IDHR) interprets the Ill. Human Rights Act (IHRA) to still require the employer to notify the applicant of the disqualification pursuant to law and to afford the applicant at least five business days to respond in case the applicant wants to dispute the accuracy of the conviction record. *Id.* at 5/2-103.1(C). See IDHR's *Conviction Record Protection – Frequently Asked Questions* (March 2021), at:

<https://dhr.illinois.gov/conviction-record-protection-frequently-asked-questions.html>.

Attorneys have different opinions as to whether the IHRA requires the *interactive assessment* outlined in 775 ILCS 5/2-103.1(c), which includes preliminary and final notices, when a disqualifying offense listed in 105 ILCS 5/21B-80 is found in a conviction record; **consult the board attorney for guidance on this issue**. See sample administrative procedure 5:30-AP2, *Investigations*, and its footnotes for more detail regarding the IHRA notice provisions and the need for districts to also comply with the seven-day notification requirement in the Ill. Uniform Conviction Information Act, 20 ILCS 2635/7. **Note:** The protections of 775 ILCS 5/2-103.1 do not cover *unpaid interns*, which may include student teachers in the K-12 context. The definition of *employee* in the IHRA only extends to include unpaid interns for civil rights violations involving sexual harassment. 775 ILCS 5/2-101(A)(1)(c) and 5/2-102(D).

105 ILCS 5/10-21.9(c); 105 ILCS 5/21B-80, amended by P.A. 102-552, allows individuals with criminal histories involving certain drug convictions to apply for or to reinstate their educator licenses seven years after their sentence for the criminal offense is completed. Consult the board attorney about whether the board wants to continue prohibiting employment for any individual who has a criminal history involving these exempted drug offenses.

For more discussion regarding criminal history records checks and screenings required by 105 ILCS 5/10-21.9, amended by P.A.s 102-552 and 102-702, see f/ns 5 and 6 in sample policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*.

⁶ Any person who applies for employment as a teacher, principal, superintendent, or other certificated employee who willfully makes a false statement on his or her application for employment, material to his or her qualifications for employment, which he or she does not believe to be true, is guilty of a Class A misdemeanor. 105 ILCS 5/22-6.5. District employment applications must contain a statement to this effect. *Id.* Each employment application for these positions must state the following (*Id.*):

Failure to provide requested employment or employer history which is material to the applicant's qualifications for employment or the provision of statements which the applicant does not believe to be true may be a Class A misdemeanor.

Many districts ask applicants about disqualifying criminal convictions on their employment applications or at another point before a job offer is made. State law does not expressly prohibit this practice; however, guidance issued by IDHR regarding implementation of 775 ILCS 5/1-103(G-5) and 5/2-103.1 states "[u]nless authorized by law, an employer is prohibited from inquiring about an applicant's conviction record prior to making a job offer to the applicant." See *Conviction Record Protection – Frequently Asked Questions* guidance issued by IDHR (March 2021), at:

<https://dhr.illinois.gov/conviction-record-protection-frequently-asked-questions.html>.

While the School Code and Job Opportunities for Qualified Applicant Act do not prohibit districts from asking about disqualifying convictions before a job offer is made, it is unclear whether they affirmatively *authorize* such inquiries. The IDHR's guidance does not carry the force of law, but it may impact its handling of a discrimination charge based on a conviction record. It is also unclear if an applicant's mere disclosure of a disqualifying conviction on an application, absent results of a fingerprint-based criminal history records check, Ill. Sex Offender Registry check, or Violent Offender Against Youth Registry check, triggers the district's obligation to provide notice to the applicant under 775 ILCS 5/2-103.1(C); see also f/n 5, above. Consult the board attorney for advice on these issues and how they may affect application processes.

Job Descriptions

The Board maintains the Superintendent's job description and directs, through policy, the Superintendent, in his or her charge of the District's administration.⁷

The Superintendent shall develop and maintain a current comprehensive job description for each position or job category; however, a provision in a collective bargaining agreement or individual contract will control in the event of a conflict.⁸

Investigations

The Superintendent or designee shall ensure that a fingerprint-based criminal history records check and a check of the Statewide Sex Offender Database and Violent Offender Against Youth Database is

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Any employer that asks applicants to record video interviews and uses an artificial intelligence (AI) analysis of the applicant-submitted videos must comply with the Artificial Intelligence Video Interview Act, 820 ILCS 42/. Employers should also be careful that use of AI, software, and algorithms to assess applicants does not violate the Americans with Disabilities Act (ADA) (42 U.S.C. §12101 *et seq.*). See EEOC technical assistance documents, *The Americans with Disabilities Act and the Use of Software, Algorithms, and Artificial Intelligence to Assess Job Applicants and Employees* (May 2022), at: www.eeoc.gov/laws/guidance/americans-disabilities-act-and-use-software-algorithms-and-artificial-intelligence and *Select Issues: Assessing Adverse Impact in Software, Algorithms, and Artificial Intelligence Use in Employment Selection Procedures Under Title VII of the Civil Rights Act of 1964* (May 2023), at: www.eeoc.gov/select-issues-assessing-adverse-impact-software-algorithms-and-artificial-intelligence-used. Given the rapidly changing technologies in this area, please consult the board attorney.

⁷ 105 ILCS 5/10-16.7. The foundation for a productive employment relationship begins with a board's policy, a thoughtfully crafted employment contract and job description, and procedures for communications and ongoing assessment. See IASB's *Foundational Principles of Effective Governance*, **Principle 3. The board employs a superintendent**, at: www.iasb.com/conference-training-and-events/training/training-resources/foundational-principles-of-effective-governance/.

See also sample exhibit 3:40-E, *Checklist for the Superintendent Employment Contract Negotiation Process*, for best practice discussions about establishing the board-superintendent employment relationship and contract.

⁸ Job descriptions will become the basis for categorizing a teacher into one or more positions that the teacher is qualified to hold for reduction in force (RIF) dismissal and recall purposes. 105 ILCS 5/24-12(b). A board should consult with its attorney to review its current list of job descriptions and discuss the district's specific responsibilities.

A job description is evidence of a position's essential functions. 29 C.F.R. §1630.2(n). The ADA protects individuals who have a disability and are qualified, with reasonable accommodation, to perform the *essential functions* of the job. 42 U.S.C. §12101 *et seq.*, amended by the ADA Amendments Act (ADAAA), Pub. L. 110-325. Determining which functions are essential may be critical to determining if an individual with a disability is qualified. An individual is qualified to perform a job even though he or she is unable, due to a disability, to perform tasks which are incidental to the job. Only when an individual is unable to perform the *essential functions* of a job may a district deny the individual employment opportunities. 29 C.F.R. §1630.2(m). For a definition of essential functions see *Id.* at 1630.2(n). Whether a particular function is essential is a factual determination.

Important: The ADAAA made significant changes to the ADA's definition of disability that broadened the scope of coverage and overturned a series of U.S. Supreme Court decisions that made it difficult to prove that an impairment was a qualifying disability. There is information about the regulations and a link to them at: www.eeoc.gov/laws/guidance/fact-sheet-eeocs-final-regulations-implementing-adaaa. Consult the board attorney regarding how these amendments impact the district's hiring processes.

performed on each applicant as required by State law.⁹ When the applicant is a successful superintendent candidate who has been offered employment by the Board, the Board President shall ensure that these checks are completed.¹⁰ The Superintendent or designee, or if the applicant is a successful superintendent candidate, then the Board President shall notify an applicant if the applicant is identified in either database.¹¹ The School Code requires the Board President to keep a conviction record confidential and share it only with the Superintendent, Regional Superintendent, State Superintendent, State Educator Preparation and Licensure Board, any other person necessary to the hiring decision, the Ill. State Police and/or Statewide Sex Offender Database for purposes of clarifying the information, and/or the Teachers' Retirement System of the State of Illinois when required by law.¹² The Board reserves its right to authorize additional background inquiries beyond a

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⁹ The policy's requirements on criminal records checks for applicants for employment are mandated by 105 ILCS 5/10-21.9, amended by P.A.s 102-552 and 102-702. See sample administrative procedure 5:30-AP2, *Investigations*, for the process, timing, and positions requiring criminal background investigation and what steps a district must take if it wants to disqualify an applicant based on a conviction record. The Statewide Sex Offender Database (a/k/a Sex Offender Registry) is available at: <https://isp.illinois.gov/Sor/Disclaimer>. The Statewide Murderer and Violent Offender Against Youth Database is available at: <https://isp.illinois.gov/MVOAY/Disclaimer>. For more discussion regarding criminal history records checks and screenings required by 105 ILCS 5/10-21.9, amended by P.A. 102-702, see f/n 5 in sample policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*. See sample policy 4:60, *Purchases and Contracts*, for requirements concerning (1) criminal background checks of employees of contractors who have *direct, daily contact* with students and (2) sexual misconduct related employment history reviews (EHRs) of employees of contractors of have *direct contact with children or students*.

¹⁰ *Id.* If a board wants to require additional background inquiries beyond the fingerprint-based criminal history records information check required by 105 ILCS 5/10-21.9, amended by P.A.s 102-552 and 102-702, and the EHR required by 105 ILCS 5/22-94, added by P.A. 102-702 including the federal *Rap Back Service* (20 ILCS 2630/3.3) and/or checks through consumer reporting agencies regulated by the Fair Credit Reporting Act (15 U.S.C. §1681 *et seq.*), consult the board attorney. For more detailed information, see the laws listed in sample exhibit 3:40-E, *Checklist for the Superintendent Employment Contract Negotiation Process*, under the checklist item entitled **Conditions of Employment**, in the **Other Background Check Laws** row.

¹¹ 105 ILCS 5/10-21.9(b) and 105 ILCS 5/21B-10. The School Code requires the board president to keep a conviction record confidential. It is impossible to know whether a fingerprint-based criminal history records check and a check of the Statewide Sex Offender and Violent Offender Against Youth Databases on a successful superintendent candidate will come back with a conviction record.

Therefore, in accordance with best practice (ensuring compliance and aligning with good governance principles), this policy does not assign a designee for the board president to complete this task. However, to balance the requirement to keep conviction records confidential with the practical implementation of ensuring a fingerprint-based criminal history records check and a check of the Statewide Sex Offender and Violent Offender Against Youth Databases are performed on each successful superintendent applicant, a board president may want to designate the duty to order these checks to the individuals otherwise listed in 105 ILCS 5/10-21.9(b). Those individuals include the board president, the superintendent or designee, regional superintendent (if the check was requested by the district), state superintendent of education, state Educator Preparation and Licensure Board, any other person necessary to the hiring decision, or for clarification purposes, the Ill. State Police and/or Statewide Sex Offender Registry.

¹² *Id.* at 5/10-21.9(b) and 105 ILCS 5/21B-85, amended by P.A. 102-552. The School Code continues to define the board president's role in conducting criminal background investigations and receiving the results of these investigations, including the results for employees of district contractors. 105 ILCS 5/10-21.9. Many districts delegate this task in the hiring process to a human resources department.

105 ILCS 5/21B-85, amended by P.A. 102-552, requires a board to provide prompt written notice to the board of trustees of the Teachers' Retirement System of the State of Illinois (TRS) when it learns that any teacher has been convicted of a felony offense (which provides for a sentence of death or imprisonment for one year or more). The notice to TRS is limited to (1) the name of the license holder, (2) fact of conviction, (3) name and location of the court in which the conviction occurred, and (4) the assigned case number from the court. *Id.*

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

fingerprint-based criminal history records check when it deems it appropriate to do so, in accordance with applicable laws.

Each newly hired employee must complete a U.S. Citizenship and Immigration Services Form as required by federal law.¹³

The District retains the right to discharge any employee whose criminal background investigation reveals a conviction for committing or attempting to commit any of the offenses outlined in 105 ILCS 5/21B-80¹⁴ or who falsifies, or omits facts from, his or her employment application or other employment documents. If an indicated finding of abuse or neglect of a child has been issued by the Ill. Department of Children and Family Services or by a child welfare agency of another jurisdiction for any applicant for student teaching, applicant for employment, or any District employee, then the Board must consider that person's status as a condition of employment.¹⁵

The Superintendent shall ensure that the District does not engage in any investigation or inquiry prohibited by law and complies with each of the following:¹⁶

1. The District uses an applicant's credit history or report from a consumer reporting agency only when a satisfactory credit history is an established bona fide occupational requirement of a particular position.¹⁷
2. The District does not screen applicants based on their current or prior wages or salary histories, including benefits or other compensation, by requiring that the wage or salary history satisfy minimum or maximum criteria.¹⁸

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For more discussion regarding responses to results obtained by criminal history records checks and screenings as required by 105 ILCS 5/10-21.9(e), amended by P.A. 102-702, see f/n 6 in sample policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*.

¹³ Immigration Reform and Control Act, 8 U.S.C. §1324a *et seq.* Consult with the board attorney regarding the district's rights and responsibilities under all Illinois laws if the district uses any electronic employment verification system, including *E-Verify* and/or the Basic Pilot Program. 820 ILCS 55/12. This statute urges employers who voluntarily use *E-Verify* (formerly known as the Basic Pilot/Employment Eligibility Verification Program) to consult the Ill. Dept. of Labor's website for current information on the accuracy of *E-Verify* and to review and understand their legal responsibilities relating to the use of any electronic employment verification systems. See f/n 2 in sample administrative procedure 5:150-AP, *Personnel Records*, for a more detailed discussion of *E-Verify* issues.

¹⁴ See f/n 5, above.

¹⁵ 105 ILCS 5/10-21.9(c) and (g). See f/n 6 in sample policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*, for further discussion.

¹⁶ As an alternative to describing the prohibited investigations, a board may substitute this sentence:

The Superintendent shall ensure that the District does not engage in any investigation or inquiry prohibited by law, including without limitation, investigation into or inquiry concerning: (1) credit history or report unless a satisfactory credit history is an established bona fide occupational requirement of a particular position; (2) claim(s) made or benefit(s) received under Workers' Compensation Act; and (3) access to an employee's or applicant's social networking website, including a request for passwords to such sites.

The default policy provision and the alternative stated above – whichever is selected – may be made a prohibition rather than a duty of the superintendent; to do this, delete the stricken text as follows: "~~The Superintendent shall ensure that the District does not engage~~"

¹⁷ Employee Credit Privacy Act, 820 ILCS 70/10. This Act allows inquiries into an applicant's credit history or credit report or ordering or obtaining an applicant's credit report from a consumer reporting agency when a satisfactory credit history is an *established bona fide occupational requirement* of a particular position. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more.

3. The District does not request or require a wage or salary history as a condition of being considered for employment, being interviewed, continuing to be considered for an offer of employment, an offer of employment, or an offer of compensation. ¹⁹
4. The District does not request or require an applicant to disclose wage or salary history as a condition of employment. ²⁰
5. The District does not ask an applicant or applicant's current or previous employers about wage or salary history, including benefits or other compensation. ²¹
6. The District does not ask an applicant or applicant's previous employers about claim(s) made or benefit(s) received under the Workers' Compensation Act. ²²
7. The District does not request of an applicant or employee access in any manner to his or her personal online account, such as social networking websites, including a request for passwords to such accounts. ²³
8. The District provides equal employment opportunities to all persons. See policy 5:10, *Equal Employment Opportunity and Minority Recruitment*.

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¹⁸ 820 ILCS 112/10(b-5). If an employer violates this subsection, the employee may recover in a civil action any damages incurred, special damages up to \$10,000, injunctive relief, and costs and reasonable attorney's fees. 820 ILCS 112/30(a-5).

¹⁹ *Id.* at 112/10(b-5).

²⁰ *Id.*

²¹ 820 ILCS 112/10(b-10). **Note:** Attorneys caution that using the exceptions in 820 ILCS 112/10(b-10)(1) and (2) may trigger litigation. Violating this subsection entitles an employee to recover in a civil action any damages incurred, special damages up to \$10,000, injunctive relief, and costs and reasonable attorney's fees. 820 ILCS 112/30(a-5).

A school board that wishes to preserve these exceptions should consult its board attorney; then they may supplement number 5 by adding the following after "compensation":

unless the applicant's wage or salary history is a matter of public record, or is contained in a document completed by the applicant's current or former employer and then made available to the public by the employer, or then submitted or posted by the employer to comply with State or federal law; or the applicant is a current employee applying for a position with the same current employer.

²² Right to Privacy in the Workplace Act, 820 ILCS 55/10(a).

²³ *Id.* at 55/10(b) (commonly known as the *Facebook Password Law*). A *personal online account* is defined as an online account used primarily by a person for personal purposes. *Personal online account* does not include an account created, maintained, used, or accessed for the business purpose of a person's employer or prospective employer. *Id.* at 55/10(b)(6). Bracketed explanations follow the statutory language in 105 ILCS 55/10(b)(5):

"Nothing in this subsection shall prohibit or restrict an employer from complying with a duty to screen employees or applicants prior to hiring...provided that the password, account information, or access sought by the employer only relates to an online account that:

(A) an employer supplies or pays; or

(B) an employee creates or maintains on behalf of under the direction of an employer in connection with that employee's employment."

[Based on this explanation, it is implausible that an applicant would have an account, service, or profile for business purposes of a school employer.]

The statute specifically permits an employer to: (1) maintain workplace policies governing the use of the employer's electronic equipment, including policies regarding Internet use, social networking site use, and electronic mail use; and (2) monitor usage of the employer's (district's) electronic equipment and electronic mail. The statute also states that it does *not prohibit* an employer from obtaining information about an applicant or an employee that is in the public domain or that is otherwise obtained in compliance with the statute. Finally, the statute does not apply to all types of personal technology that employees may use to communicate with students or other individuals, such as text messages on a personal phone. Consult the board attorney about these issues.

Sexual Misconduct Related Employment History Review (EHR) ²⁴

Prior to hiring an applicant for a position involving *direct contact with children or students*, the Superintendent shall ensure that an EHR is performed as required by State law. When the applicant is a superintendent candidate, the Board President shall ensure that the EHR is initiated before a successful superintendent candidate is offered employment by the Board.

Physical Examinations ²⁵

Each new employee must furnish evidence of physical fitness to perform assigned duties and freedom from communicable disease. The physical fitness examination must be performed by a physician licensed in Illinois, or any other state, to practice medicine and surgery in any of its branches, a licensed advanced practice registered nurse, or a licensed physician assistant who has been delegated the authority by his or her supervising physician to perform health examinations. The employee must have the physical examination performed no more than 90 days before submitting evidence of it to the District.

Any employee may be required to have an additional examination by a physician who is licensed in Illinois to practice medicine and surgery in all its branches, a licensed advanced practice registered nurse, or a licensed physician assistant who has been delegated the authority by his or her supervising physician to perform health examinations, if the examination is job-related and consistent with business necessity.²⁶ The Board will pay the expenses of any such examination.

Orientation Program

The District's staff will provide an orientation program for new employees to acquaint them with the District's policies and procedures, the school's rules and regulations, and the responsibilities of their

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²⁴ 105 ILCS 5/22-94, added by P.A. 102-702. See sample administrative procedure 5:30-AP3, *Sexual Misconduct Related Employment History Review (EHR)*, for the process, timing, and positions requiring an EHR. See sample policy 4:60, *Purchases and Contracts*, and sample administrative procedure 4:60-AP4, *Sexual Misconduct Related Employment History Review (EHR) of Contractor Employees*, for EHR requirements for employees of contractors who have *direct contact with children or students*.

²⁵ 105 ILCS 5/24-5. According to this statute, a new or existing employee or substitute teacher employee may be subject to additional health examinations, including tuberculosis screening, as required by rules adopted by the Ill. Dept. of Public Health (IDPH) or by order of a local public health official. The IDPH does not require school employees to be screened for tuberculosis other than workers in child day care and preschool settings. 77 Ill.Admin.Code §696.140(a)(3).

The last sentence of the first paragraph exceeds State law requirements and may be deleted.

Note that while examination by a spiritual leader/practitioner is sufficient for purposes of leaves, the statute does not permit an examination by a spiritual leader/practitioner for initial employment exams. This difference may present a constitutional issue; contact the board attorney for an opinion if an applicant wants to use an examination by a spiritual leader/practitioner.

Federal law limits pre-employment medical inquiries to whether the applicant is able to perform job-related functions; required medical examinations of applicants is forbidden. ADA, 42 U.S.C. §12112(d)(2); see also f/n 8 for an explanation regarding the ADAAA. Districts may condition an employment offer on taking and passing medical inquiries or physical exams, provided that all entering employees in the same classification receive the same conditional offer.

²⁶ The State law (105 ILCS 5/24-5) allowing boards to require physicals of current employees "from time to time," is superseded by the ADA. 42 U.S.C. §12112(d)(4). The ADA allows medical inquiries of current employees only when they are job-related and consistent with business necessity or part of a voluntary employee wellness program. *Id.* Districts may deny jobs to individuals with disabilities who pose a direct threat to the health or safety of others in the workplace, provided that a reasonable accommodation would not either eliminate the risk or reduce it to an acceptable level. 42 U.S.C. §12113; 29 C.F.R. §1630.2(r). See f/n 8 for an explanation regarding the ADAAA.

See f/n 25 for a discussion of examinations by spiritual leaders/practitioners.

position. Before beginning employment, each employee must sign the *Acknowledgement of Mandated Reporter Status* form as provided in policy 5:90, *Abused and Neglected Child Reporting*.

LEGAL REF.: 42 U.S.C. §12112, Americans with Disabilities Act; 29 C.F.R. Part 1630.
15 U.S.C. §1681 et seq., Fair Credit Reporting Act.
8 U.S.C. §1324a et seq., Immigration Reform and Control Act.
105 ILCS 5/10-16.7, 5/10-20.7, 5/10-21.4, 5/10-21.9, 5/10-22.34, 5/10-22.34b,
5/21B-10, 5/21B-80, 5/21B-85, 5/22-6.5, 5/22-94, and 5/24-5.
20 ILCS 2630/3.3, Criminal Identification Act.
820 ILCS 55/, Right to Privacy in the Workplace Act.
820 ILCS 70/, Employee Credit Privacy Act.
820 ILCS 112/, Equal Pay Act of 2003.
Duldulao v. St. Mary of Nazareth Hospital, 136 Ill. App. 3d 763 (1st Dist. 1985),
aff'd in part and remanded 115 Ill.2d 482 (Ill. 1987).
Kaiser v. Dixon, 127 Ill. App. 3d 251 (2nd Dist. 1984).
Molitor v. Chicago Title & Trust Co., 325 Ill. App. 124 (1st Dist. 1945).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 3:50 (Administrative Personnel Other
Than the Superintendent), 4:60 (Purchases and Contracts), 4:175 (Convicted
Child Sex Offender; Screening; Notifications), 5:10 (Equal Employment
Opportunity and Minority Recruitment), 5:40 (Communicable and Chronic
Infectious Disease), 5:90 (Abused and Neglected Child Reporting), 5:120
(Employee Ethics; Code of Professional Conduct; and Conflict of Interest), 5:125
(Personal Technology and Social Media; Usage and Conduct), 5:220 (Substitute
Teachers), 5:280 (Duties and Qualifications)

General Personnel

Drug- and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition ¹

All District workplaces are drug- and alcohol-free workplaces. ²

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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. The Right to Privacy in the Workplace Act (RPWA) allows employers to regulate employees' use of lawful products that impair an employee's ability to perform his or her assigned duties. 820 ILCS 55/5(b). The Cannabis Regulation and Tax Act (CRTA), 410 ILCS 705/10-35(a)(8), allows penalties issued by employers of law enforcement officers for consumption, possession, sale, purchase, or delivery of cannabis or cannabis-infused substances while on or off-duty to be collectively bargained; districts that employ school resource officers should consult their board attorneys about this provision of the CRTA.

The federal Drug-Free Workplace Act applies only to the specific programs receiving federal funds. 41 U.S.C. §8101 *et seq.* For ease of administration, this policy makes its requirements applicable to all employees to avoid confusion during implementation and to avoid complications when obtaining and maintaining federal funds. The CRTA, 410 ILCS 705/, legalized cannabis, but it remains a *Schedule I* (c)(17) controlled substance under federal law, meaning that it has no currently accepted medical use in addition to a high potential for abuse. 21 U.S.C.A. §812 (exempting hemp as defined at 7 U.S.C.A. §1639o). 41 U.S.C. §§8101, 8102 and 8103. While not law, in June 2019, the U.S. House of Representatives, in a voice vote, voted in favor of an amendment to H.R. 3055, which was introduced by Reps. Earl Blumenauer (D-OR), Tom McClintock (R-CA), and Eleanor Holmes Norton (D-D.C.), prohibiting the U.S. Dept. of Justice (DOJ) from interfering with a state's decision to implement laws governing the legalization of cannabis (recreational and medicinal). This marked the first time that either branch of the U.S. Congress has voted to protect state recreational cannabis laws from federal enforcement actions. If the amendment becomes law, it would block the DOJ from using funds to intervene in state and territory cannabis legalization laws. This policy continues to prohibit employees from using cannabis as allowed by the CRTA. See f/n 9, below.

The federal Safe and Drug-Free Schools and Communities Act provides funds, upon application, for drug and violence prevention programs; it does not contain policy mandates. Illinois also has a Drug Free Workplace Act (30 ILCS 580/) that applies to districts with 25 or more employees working under a state contract or a grant of \$5,000 or more.

² Replace this sentence with the district's drug- and alcohol- free policy goal(s), if any.

With the passage of the CRTA, 410 ILCS 705/, each board and superintendent may wish to engage in a risk-management conversation about the district's drug- and alcohol-free policy enforcement and discipline goals. Enforcement and discipline goals depend upon a board's risk-level tolerance and community expectations. Risk-level-tolerance decisions will depend upon many factors, including, but not limited to: (1) the board attorney's recommendations, (2) the district's budget parameters, if any, for reasonable suspicion training on identification of symptoms of impairment and/or being under the influence, (3) drug testing, and (4) the community's expectations. Answers to the following questions might structure this risk-management conversation:

9. Does the board want to implement a reasonable suspicion program (or any other type of *just cause* provisions in an applicable collective bargaining agreement) to identify employees suspected of being impaired and/or under the influence to enhance its ability to discipline?
10. Does the board want the superintendent to secure training for designated district employees to educate them to identify symptoms of impairment or being under the influence of the substances prohibited in this policy?
11. How does the board want to address employees in positions of leadership, e.g., the superintendent and/or building principal(s), who are perpetually on call due to the nature of their positions and responsibilities (see f/n 3, below)?
12. How will the district manage its duty to educate students about the dangers of drugs and alcohol against the reality that employees are allowed to use lawful products off-duty and off the district's premises (820 ILCS 55/5(a))?
13. Will licensed educators be held to a higher standard than non-licensed employees due to their professional code of conduct expectations?
14. Will employees working directly with students be held to a higher standard than employees not working directly with students?

All employees are prohibited from engaging in any of the following activities while on District premises or while performing work or being *on call*³ for the District: ⁴

1. Unlawful manufacture, dispensing, distribution, possession, or use of an illegal or controlled substance. ⁵
2. Distribution, consumption, use, possession, or being impaired by or under the influence of an alcoholic beverage; being present on District premises or while performing work for the District when alcohol consumption is detectible, regardless of when and/or where the use occurred. ⁶
3. Distribution, consumption, possession, use, or being impaired by or under the influence of cannabis; being present on District premises or while performing work for the District when impaired by or under the influence of cannabis, regardless of when and/or where the use occurred, unless distribution, possession, and/or use is by a school nurse or school administrator pursuant to *Ashley's Law*, 105 ILCS 5/22-33.⁷ The District considers

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³ An employee is *on call* when the employer schedules him or her with at least 24 hours' notice to be on standby or otherwise responsible for performing employment-related tasks either at the employer's location or another previously-designated location. 820 ILCS 55/5. Consult the board attorney regarding how the board wants to treat employees who may be considered on call, e.g., superintendents, principals, coaches, and/or maintenance workers, etc.

For boards that do not want this text, delete ~~or being on call~~.

⁴ To align with best practices for identifying and subsequently initiating discipline of employees for violating this policy (especially with the passage of the CRTA) and any possible collective bargaining agreement provisions, the superintendent may want to convene the **Employee Substance Abuse Prevention Committee** (see sample administrative procedure 2:150-AP, *Superintendent Committees*).

⁵ These actions are prohibited by both federal (41 U.S.C.A. §§8101, 8102 and 8103) and State Workplace Acts. See f/n 13, below. These laws do not address *under the influence* but a board may add: “, or being impaired by or under the influence of any illegal substance or any detectible use of any illegal substance regardless of when or where the use occurred.” This option is limited to *illegal* substances to avoid prohibiting employees from using lawfully prescribed controlled substances. See f/n 13. Contact the board attorney for advice concerning this provision and whenever the district wants to discipline or dismiss an employee using it. If a hearing is required before the district may discipline or discharge an employee under this provision, the district must put forth evidence that the employee violated it. A district would also have this burden if a grievance is filed under a *just cause* provision in a collective bargaining agreement. This policy's third paragraph addresses prescribed medications other than cannabis.

⁶ Optional; alcohol is not addressed in either the federal or State Drug-Free Workplace Acts. Contact the board attorney for advice concerning this provision and whenever the district wants to discipline or dismiss an employee using it. If a hearing is required before the district may discipline or discharge an employee under this provision, the district must put forth evidence that the employee violated it. A district would also have this burden if a grievance is filed under a *just cause* provision in a collective bargaining agreement. The Ill. Court of Appeals held that when the policy defines *under the influence* as any “mental, emotional, sensory or physical **impairment** due to the use of drugs or alcohol,” the school district must prove that the teacher showed signs of impairment even though she registered 0.056 blood-alcohol level on a Breathalyzer. *Kinsella v. Bd. of Ed. of the City of Chicago*, 27 N.E.3d 226 (Ill. App. Ct. 1st Dist. 2015).

⁷ “[R]egardless of when and/or where the use occurred” is intended to mean that an employer may reach an employee's conduct on or off-duty depending upon the facts of the disciplinary situation; however, the CRTA contains a specific requirement that law enforcement employers adopt a policy outlining penalties for discipline of law enforcement employees for their on or off-duty conduct involving consumption, possession, sale, purchase, or delivery of cannabis or cannabis-infused substances. *Id.* at 10-35(a)(8). See also f/ns 1, above, and 9, below. Consult the board attorney if the district employs a school resource officer(s) (SRO(s)) as opposed to contracting with a local law enforcement agency for SRO services.

410 ILCS 130/25(b) prohibits discipline or arrest of school nurses and/or administrators for acting in accordance with *Ashley's Law*, 105 ILCS 5/22-33. Employers may enforce drug-free workplace policies when they are applied in a nondiscriminatory manner. 410 ILCS 705/10-50(a) includes disciplining employees – even those who are *registered qualifying patients* – for violating drug-free workplace policies (410 ILCS 130/50 and 705/10-35(a)(1)). Contact the board attorney for advice concerning the Compassionate Use of Medical Cannabis Program Act (Medical Cannabis Program Act (MCPA)).

employees impaired by or under the influence of cannabis when there is a good faith belief that an employee manifests specific articulable symptoms⁸ while working that decrease or lessen the employee's performance of the duties or tasks of the employee's job position.⁹

Upon the Superintendent or designee's reasonable suspicion of an employee's violation of any of the prohibited activities stated above, the Superintendent or designee may direct the employee to undergo a drug and/or alcohol test to corroborate or refute the alleged violation. State law protects the District from liability when it takes actions pursuant to a reasonable workplace drug policy, including but not limited to subjecting an employee or applicant to reasonable drug and alcohol testing, reasonable and nondiscriminatory random drug testing, discipline, termination of employment, or withdrawal of a job offer due to a failure of a drug test.¹⁰

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⁸ Specific articulable symptoms listed in 410 ILCS 705/10-50(d) include: the employee's speech, physical dexterity, agility, coordination, demeanor, irrational or unusual behavior, or negligence or carelessness in operating equipment or machinery; disregard for the safety of the employee or others, or involvement in any accident that results in serious damage to equipment or property; disruption of a production or manufacturing process; or carelessness that results in any injury to the employee or others. In contrast to the CRTA, the MCPA, while listing the same specific, articulable, symptoms, does not require an employer to have a *good faith belief* that a *registered qualifying patient* is under the influence of cannabis. 410 ILCS 130/50(f).

⁹ 410 ILCS 705/10-35 and 10-50(a) allow reasonable, nondiscriminatory, zero-tolerance policies. If the district seeks to discipline an employee on the basis that he or she is under the influence of or impaired by cannabis, it must afford the employee a reasonable opportunity to contest the basis of the determination. *Id.* at 10-50(d). See also *f/n* 7, above. **Contact the board attorney for advice concerning this provision and whenever the district seeks disciplinary action or dismissal of an employee on the basis of the cannabis prohibitions in the policy.**

See also the Ill. Vehicle Code 625 ILCS 5/11-501.2(b-5) number one: when an individual's tetrahydrocannabinol concentration (THC) is five nanograms or more in whole blood or 10 nanograms or more in another bodily substance, e.g., saliva, urine, etc., as defined in 625 ILCS 5/11-501.2(a), a presumption under Illinois law exists that the individual is under the influence of cannabis. Under 625 ILCS 5/11-501.2(b-5) number two: when an individual's [THC] is less than five nanograms in whole blood or less than 10 nanograms or more in another bodily substance, e.g., saliva, urine, etc., as defined in 625 ILCS 5/11-501.2(a), the individual may still be considered impaired.

In addition to a zero-tolerance policy, the CRTA also allows civil, criminal, or other penalties for:

1. Engaging in tasks under the influence of cannabis when doing so would constitute negligence, professional malpractice, or professional misconduct (410 ILCS 705/10-35(a)(1));
2. Possessing cannabis on a school bus or on school grounds (*Id.* at 10-35(a)(2)(A)-(B) unless permitted under the MCPA);
3. Using cannabis on a school bus or on school grounds (*Id.* at 10-35(a)(3)(A)-(B) unless permitted under the MCPA);
4. [Using cannabis] in a public place [while impaired or under the influence of cannabis](*Id.* at 10-35(a)(3)(F));
5. Knowingly being [impaired by or under the influences of cannabis] in close physical proximity to anyone under 21 years of age who is not a registered medical cannabis patient under the MCPA (*Id.* at 10-35(a)(3)(G));
6. Smoking [and/or *vaping* (see *f/n* 19, below for a definition of *vaping*)] it in any place where smoking is prohibited under the Smoke Free Illinois Act (*Id.* at 10-35(a)(4));
7. Using [cannabis] as an on-duty law enforcement officer, corrections officer, probation officer, or firefighter (*Id.* at 10-35(a)(8)), or consuming, possessing, selling, purchasing, or delivering cannabis or a cannabis-infused substance(s) while on or off-duty [only if a policy has been adopted] *Id.* at 10-35(a)(8); or
8. [Using cannabis while [b]]eing on duty as an individual holding a school bus permit or Commercial Driver's License (*Id.* at 10-35(a)(9)).

¹⁰ 410 ILCS 705/10-50(d). For boards that will not communicate to employees what will happen when reasonable suspicion exists, delete the first sentence of this paragraph: ~~Upon the Superintendent or designee's reasonable suspicion of an employee's violation of any of the prohibited activities stated above, the Superintendent or designee may direct the employee to undergo a drug and/or alcohol test to corroborate or refute the alleged violation.~~

410 ILCS 705/10-50(e)(1), protects the district from liability for actions described in the last sentence of this paragraph. Delete it if the board will not communicate this information to its employees.

For purposes of this policy, a controlled substance means a substance that is:

1. Not legally obtainable,
2. Being used in a manner different than prescribed,
3. Legally obtainable, but has not been legally obtained, or
4. Referenced in federal or State controlled substance acts.

For purposes of this policy, *District premises*¹¹ means workplace as defined in the Cannabis Regulation and Tax Act (CRTA) in addition to District and school buildings, grounds, and parking areas; vehicles used for school purposes; and any location used for a School Board meeting, school athletic event, or other school-sponsored or school-sanctioned events or activities. School grounds means the real property comprising any school, any conveyance used to transport students to school or a school-related activity, and any public way within 1,000 feet of any school ground, designated school bus stops where students are waiting for the school bus, and school-sponsored or school-sanctioned events or activities. "Vehicles used for school purposes" means school buses or other school vehicles.

As a condition of employment, each employee shall: ¹²

1. Abide by the terms of this Board policy respecting a drug- and alcohol-free workplace; and
2. Notify his or her supervisor of his or her conviction under any criminal drug statute for a violation occurring on the District premises or while performing work for the District, no later than five calendar days after such a conviction.

Unless otherwise prohibited by this policy, prescription and over-the-counter medications are not prohibited when taken in standard dosages and/or according to prescriptions from the employee's licensed health care provider, provided that an employee's work performance is not impaired. ¹³

To make employees aware of the dangers of drug and alcohol abuse, the Superintendent or designee shall perform each of the following: ¹⁴

1. Provide each employee with a copy of this policy.
2. Post notice of this policy in a place where other information for employees is posted. ¹⁵

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¹¹ 410 ILCS 705/10-35 and 10-50(a) allows employers to prohibit cannabis in the *workplace*. Many attorneys agree it is a best practice for employers to define workplace in policies that prohibit cannabis. 410 ILCS 705/10-50(h) defines *workplace* as the employer's premises, including any building, real property, and parking area under the control of the employer or area used by an employee while in performance of the employee's job duties, and vehicles, whether leased, rented, or owned – and may be further defined by the employer's written policy when it is consistent with this definition.

This policy's definition of workplace expands the above CRTA definition to areas that board policy and/or the School Code impose duties upon districts to keep students safe, including:

3. The *school property* definition from sample policy 8:30, *Visitors to and Conduct on School Property*;
4. The *school grounds* definition at 105 ILCS 5/10-27.1A(d); and
5. Places that school districts must prevent and respond to bullying, including vehicles used for school purposes. 105 ILCS 5/27-23.7(a).

¹² Required by the State and federal Drug-Free Workplace Acts.

¹³ This optional paragraph is not addressed in State or federal drug-free workplace acts. An employer should generally not ask an employee about his or her use of medication. See rules implementing the Americans with Disabilities Act, 29 C.F.R. §1630.14. Consult the board attorney if an employee is suspected of working while impaired or under the influence.

¹⁴ Numbers one through five in this paragraph are required by the State and federal Drug-Free Workplace Acts. 30 ILCS 580/3.

¹⁵ As an alternative, replace the phrase "in a place where other information for employees is posted" with the district's local method, e.g., staff intranet, Internet, etc.

3. Make available materials from local, State, and national anti-drug and alcohol-abuse organizations.¹⁶
4. Enlist the aid of community and State agencies with drug and alcohol informational and rehabilitation programs to provide information to District employees.
5. Establish a drug-free awareness program to inform employees about:
 - a. The dangers of drug abuse in the workplace,
 - b. Available drug and alcohol counseling, rehabilitation, re-entry, and any employee assistance programs, and
 - c. The penalties that the District may impose upon employees for violations of this policy.
6. Remind employees that policy 6:60, *Curriculum Content*, requires the District to educate students, depending upon their grade, about drug and substance abuse prevention and relationships between drugs, alcohol, and violence.¹⁷

E-Cigarette, Tobacco, and Cannabis Prohibition¹⁸

All employees are covered by the conduct prohibitions contained in policy 8:30, *Visitors to and Conduct on School Property*. The prohibition on the use of e-cigarettes,¹⁹ tobacco, and cannabis

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¹⁶ Grants may be available from the Ill. State Board of Education for developing a drug-free awareness program. 105 ILCS 5/2-3.93. The drug-free awareness program requirement can be met by developing a brochure on drug abuse or by contacting local, State, or national anti-drug abuse organizations for materials. The materials should be distributed to employees along with a list of places employees may call for assistance.

¹⁷ Optional. This statement serves as a display of good judgement and a reminder to employees that 105 ILCS 5/27-13.2, amended by P.A.s 102-195 and 103-365, and 5/27-23.4 (provided it can be funded by private grants or the federal government) require districts to educate students about the prevention and avoidance of drugs abuse, the dangers of opioid and substance abuse, and the dangers of fentanyl.

¹⁸ 105 ILCS 5/10-20.5b, The Smoke Free Illinois Act, 410 ILCS 82/, and the CRTA, 410 ILCS 705/10-35(a)(4)(smoking anyplace where smoking is prohibited under the Smoke Free Illinois Act). Federal law prohibits smoking inside schools. 20 U.S.C. §6083(a).

The prohibition in sample policy 8:30, *Visitors to and Conduct on School Property*, referred to here, applies “on school property or at a school event.” Here, “at a school event” is clarified with the phrase “while ... performing work for the District” in order to align with this policy’s other prohibitions.

¹⁹ While 720 ILCS 675/1, excludes e-cigarettes from its definition of tobacco, it does not address vaporization. Prohibiting *e-cigarettes* aligns with the district’s obligation to maintain a safe, smoke-free environment and is logical extension of 105 ILCS 5/10-20.5b, The Smoke Free Illinois Act (410 ILCS 82/), and The Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act, 720 ILCS 675 (provides the legal age to buy tobacco and e-cigarette products to 21 years of age). In addition, the U.S. Food and Drug Administration now regulates e-cigarettes. 21 C.F.R. Parts 1100, 1140, and 1143.

E-Cigarettes may resemble cigarettes but contain a battery-operated heating element that turns a liquid into an aerosol (or vapor) that sometimes includes nicotine, flavorings, and other chemicals. The act of inhaling and exhaling the aerosol is known as *vaping*. See <https://nida.nih.gov/publications/drugfacts/vaping-devices-electronic-cigarettes>. For ease of administration, this policy treats *vaping*, whether tobacco products or not, and smoking tobacco the same due to the outbreaks of lung disease associated with the use of e-cigarettes and vaping. Some e-cigarettes do not look like tobacco products; they are designed to resemble other objects, such as USB flash drives, to be more easily concealed. Like smoking tobacco, vaporization products may include nicotine, which is derived from and is the addictive drug in tobacco, and other potentially harmful chemicals. See *Tobacco/Nicotine and Vaping* at: <https://nida.nih.gov/research-topics/tobacconicotine-vaping>. Unlike smoking tobacco, vaping does not produce smoke, but rather the aerosol, often mistaken for water vapor and consisting of fine particles. Many of these particles contain varying amounts of toxic chemicals, which have been linked to cancer and respiratory and heart disease. For resources, see www.cdc.gov/tobacco/basic_information/e-cigarettes/index.htm and https://digitalmedia.hhs.gov/tobacco/educator_hub.

products applies both (1) when an employee is on school property, and (2) while an employee is performing work for the District at a school event regardless of the event's location.

Tobacco has the meaning provided in 105 ILCS 5/10-20.5b.

Cannabis has the meaning provided in the CRTA, 410 ILCS 705/1-10.

E-Cigarette is short for electronic cigarette and includes, but is not limited to, any electronic nicotine delivery system (ENDS), electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any components or parts that can be used to build the product or device. ²⁰

District Action Upon Violation of Policy

An employee who violates this policy may be subject to disciplinary action, including termination. ²¹ In addition or alternatively, the Board may require an employee to successfully complete an appropriate drug- or alcohol-abuse rehabilitation program.

The Board shall take disciplinary action with respect to an employee convicted of a drug offense in the workplace within 30 days after receiving notice of the conviction. ²²

Should District employees be engaged in the performance of work under a federal contract or grant, or under a State contract or grant of \$5,000 or more, the Superintendent shall notify the appropriate State or federal agency from which the District receives contract or grant monies of the employee's conviction within 10 days after receiving notice of the conviction. ²³

Disclaimer ²⁴

The Board reserves the right to interpret, revise or discontinue any provision of this policy pursuant to the **Suspension of Policies** subhead in policy 2:240, *Board Policy Development*.

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²⁰ Optional. If a district does not want to include the statutory example that includes the term *vape pen*, which provides notice that vaping products are also prohibited through the term *e-cigarette*, replace ~~includes but is not limited to, any electronic nicotine delivery system (ENDS), electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, vape pen, or similar product or device, and any components or parts that can be used to build the product or device~~ with “shall have the meaning provided in the Prevention of Tobacco Use by Minors and Sale and Distribution of Tobacco Products Act, 720 ILCS 675/1(a-9).”

²¹ An employee who currently uses *illegal* drugs is not protected under the Americans With Disabilities Act (ADA) when the district acts on the basis of such use. 42 U.S.C. §12114. Legal drug abusers and alcoholics may still be protected as *handicapped* under the Rehabilitation Act of 1973 (29 U.S.C. §706 et seq.) or the Ill. Human Rights Act (IHRA). 775 ILCS 5/1-101 et seq. and 56 Ill.Admin.Code §2500.20. The Rehabilitation Act, however, excludes from protection “an alcohol or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment ...would constitute a direct threat to the property or the safety of others.” 28 C.F.R. §42.540(k)(1).

The ADA neither authorizes nor prohibits drug testing; it allows the results of such tests to be used as the basis for disciplinary action. 42 U.S.C. §12114; 29 C.F.R. §1630.16(c). Drug tests may still violate other laws, e.g., Title VI and the Rehabilitation Act. 42 U.S.C. §2000e et seq.; and 29 U.S.C. §701 et seq. Drug tests may also be a subject of collective bargaining. See paragraph one of f/n 1, above. Consult the board attorney before implementing a drug testing program to enforce this policy.

²² Required by both the federal and State Drug-Free Workplace Acts.

²³ Id.

²⁴ Optional best practice text.

- LEGAL REF.: 20 U.S.C. §7101 et seq., Safe and Drug-Free School and Communities Act of 1994.
21 U.S.C. §812, Controlled Substances Act; 21 C.F.R. §1308.11-1308.15.
41 U.S.C. §8101 et seq., Drug-Free Workplace Act of 1988.
42 U.S.C. §12114, Americans With Disabilities Act.
21 C.F.R. Parts 1100, 1140, and 1143.
30 ILCS 580/, Drug-Free Workplace Act.
105 ILCS 5/10-20.5b.
410 ILCS 82/, Smoke Free Illinois Act.
410 ILCS 130/, Compassionate Use of Medical Cannabis Program Act.
410 ILCS 705/1-1 et seq., Cannabis Regulation and Tax Act.
720 ILCS 675, Prevention of Tobacco Use by Persons under 21 Years of Age and Sale and Distribution of Tobacco Products Act.
820 ILCS 55/, Right to Privacy in the Workplace Act.
23 Ill.Admin.Code §22.20.
- CROSS REF.: 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:120 (Employee Ethics; Code of Professional Conduct; and Conflict of Interest), 6:60 (Curriculum Content), 8:30 (Visitors to and Conduct on School Property)