

School District Organization

School District Legal Status ¹

The Illinois Constitution requires the State to provide for an efficient system of high-quality public educational institutions and services in order to achieve the educational development of all persons to the limits of their capabilities.

The General Assembly has implemented this mandate through the creation of school districts. The District is governed by the laws for school districts serving a resident population of not fewer than 1,000 and not more than 500,000. ²

The School Board constitutes a body corporate that possesses all the usual powers of a corporation for public purposes, and in that name may sue and be sued, purchase, hold and sell personal property and real estate, and enter into such obligations as are authorized by law.

LEGAL REF.: Ill. Constitution, Art. X, Sec. 1.
105 ILCS 5/10-1 et seq.

CROSS REF.: 2:10 (School District Governance), 2:20 (Powers and Duties of the School Board; Indemnification)

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

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

² See f/n 2 of sample policy 2:10, *School District Governance*, for a discussion of school districts having a population of less than 1,000 inhabitants.

School District Organization

District Organization, Operations, and Cooperative Agreements

The District is organized and operates as follows: ¹

[INSERT DISTRICT'S ORGANIZATION and OPERATIONS]

The District enters into and participates in joint programs and intergovernmental agreements with units of local government and other school districts in order to jointly provide services and activities in a manner that will increase flexibility, scope of service opportunities, cost reductions, and/or otherwise benefit the District and the community.² The Superintendent shall manage these activities to the extent the program or agreement requires the District's participation, and shall provide periodic implementation or operational data and/or reports to the School Board concerning these programs and agreements. The District participates in the following joint programs and intergovernmental agreements: ³

[INSERT APPLICABLE JOINT PROGRAMS]

LEGAL REF.: Ill. Constitution, Art. VII, Sec. 10.
 5 ILCS 220/, Intergovernmental Cooperation Act.

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. Whatever school system is established by the State legislature must be free and open to all, without discrimination. *Lewis E. v. Spagnolo*, 287 Ill.App.3d 822 (3rd. Dist. 1997). Boards may use the following sentence as the first sentence, customizing it as appropriate: "The District is organized and operates as a Unit District serving the educational needs of children in grades Pre-K through 12 and others as required by the School Code."

² Ill. Constitution, Art. VII, Sec. 10; 5 ILCS 220/. A number of provisions in the School Code which provide authority for boards to jointly provide programs or services with other school districts or colleges that meet specified criteria, including: (1) 105 ILCS 5/10-22.20a (vocational and career education); (2) 5/10-22.22e (science and math partnership school); (3) 5/10-22.31 (special education), (4) 5/10-22.31a (joint educational programs); (5) 5/10-22.31b (joint building program); and (6) 5/10-20.42 (wind and solar farms).

³ In some districts, the joint educational programs and intergovernmental agreements in which they participate change frequently; boards in those districts should omit this sentence and should not list the joint educational programs and intergovernmental agreements. While this list may be limited to only educational programs, some boards may choose to also list insurance co-ops or other similar joint agreements.

School District Organization

School District Philosophy ¹

The School District, in an active partnership with parents and community, will promote excellence in a caring environment in which all students learn and grow. This partnership aims to empower all students to develop strong self-respect and to become responsible learners and decision-makers. The School District is committed to developing and using a visionary and innovative curriculum,² a knowledgeable and dedicated staff, and sound fiscal and management practices.

CROSS REF: 2:10 (School District Governance), 3:10 (Goals and Objectives), 6:10 (Educational Philosophy and Objectives)

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

¹ Replace the text in this sample policy with the district's mission, vision, and/or belief statement, if any. A mission statement is a statement of purpose: why the district exists, what benefits it intends to deliver, and who will receive those benefits. See IASB's *Foundational Principles of Effective Governance*, at www.iasb.com/principles_popup.cfm.

² Alternatively, strike "visionary and innovative" and substitute: "comprehensive and challenging".

School Board

School District Governance ¹

The District is governed by a School Board consisting of seven members.² The Board's powers and duties include the authority to adopt, enforce, and monitor all policies for the management and governance of the District's schools.³

Official action by the Board may only occur at a duly called and legally conducted meeting. Except as otherwise provided by the Open Meetings Act, a quorum must be physically present at the meeting.⁴

As stated in the Board member oath of office prescribed by the School Code, a Board member has no legal authority as an individual.⁵

LEGAL REF.: 5 ILCS 120/, Open Meetings Act.
105 ILCS 5/10-1, 5/10-10, 5/10-12, 5/10-16.5, 5/10-16.7, and 5/10-20.5.

CROSS REF.: 1:10 (School District Legal Status), 2:20 (Powers and Duties of the School Board; Indemnification), 2:80 (Board Member Oath and Conduct), 2:120 (Board Member Development), 2:200 (Types of School Board Meetings), 2:220 (School Board Meeting Procedure)

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. IASB sample policies are aligned with IASB's *Foundational Principles of Effective Governance*, www.iasb.com/principles_popup.cfm.

Sample policy 2:120, *Board Member Development*, contains the board member training requirements.

² School districts having a population between 1,000 and 500,000 inhabitants are governed by a seven-member board of education. 105 ILCS 5/10-10. School districts having a population of less than 1,000 are governed by a three-member board of school directors, unless it is governed by a special act, or is a consolidated district, or a district in which the membership was increased by the passage of a proposition. 105 ILCS 5/10-1.

³ 105 ILCS 5/10-16.7 and 5/10-20.

⁴ 5 ILCS 120/2.01 and 120/7(e)(1)-(10); see also 105 ILCS 5/10-12.

The Open Meetings Act (OMA) defines *meeting* as "any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business." 5 ILCS 120/1.02. A quorum must be physically present for all meetings, except under limited circumstances such as during a public health emergency. 5 ILCS 120/2.01 and 120/7(e). During the COVID-19 pandemic, the OMA was amended to give public bodies the flexibility to meet without the presence of a physical quorum during a disaster declaration related to a public health emergency. See f/n 32 of sample policy 2:220, *School Board Meeting Procedure*, and its subhead **No Physical Presence of Quorum and Participation by Audio or Video; Disaster Declaration**.

⁵ The oath is found in 105 ILCS 5/10-16.5. Specific board officers may have individual authority; for example, the president may call a special meeting. 105 ILCS 5/10-16.

School Board

Board Member Oath and Conduct

Each School Board member, before taking his or her seat on the Board, shall take the following oath of office: ¹

I, (name), do solemnly swear (or affirm) that I will faithfully discharge the duties of the office of member of the Board of Education² of (name of School District), in accordance with the Constitution of the United States, the Constitution of the State of Illinois, and the laws of the State of Illinois, to the best of my ability.

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

¹ Although the policy is not required by State or federal law, each board member, before taking his or her seat on the board, must take an oath in substantially the form given in the statute as reprinted in this sample policy. 105 ILCS 5/10-16.5. Districts often ask whether this applies only to newly elected board members or to all members elected and/or re-elected. To ensure compliance, members that are newly elected or appointed and members returning by re-appointment and/or re-election should take the oath as the board determines it should be administered, i.e., examine the board's policy or its current practice for administering the oath of office.

This policy contains the verbatim oath because many of its provisions have policy implications. However, if a board prefers to remove the oath from the policy, it should replace the first sentence with this alternative:

Each Board member, before taking his or her seat on the Board, shall take the oath of office as prescribed in Section 10-16.5 of the School Code.

The School Code does not specifically address what happens when board members violate their oath of office, nor does it create an opportunity to take legal action for such violations. Collins v. Bd. of Educ. of North Chicago Comm. Unit Sch. Dist. 187, 792 F.Supp.2d 992 (N.D.Ill. 2011). **Consult the board attorney for guidance when considering any type of disciplinary action or sanction against a board member.**

Depending on the situation, a board self-evaluation or private one-on-one meetings with a board member may be appropriate to address an issue relating to board member behavior (for a list of IASB workshops, see www.iasb.com/conference-training-and-events/training/workshops/). When a board member's violation of the oath of office also constitutes a willful failure to perform his or her official duties, the board may request the regional superintendent to remove the member from office. See sample policy 2:60, *Board Member Removal from Office*, at f/n 2, for further discussion. A board member whose conduct violates conflict of interest laws may also be subject to criminal liability and removal from office. See sample policy 2:100, *Board Member Conflict of Interest*, and its footnotes, for additional information. In consultation with the board attorney, a board may also consider other actions to address a member's violation of the oath of office, such as publicly censuring a member. Houston Comm. College System v. Wilson, 595 U.S. 468 (2022) (holding that a college board of trustees did not violate a trustee's First Amendment rights when it adopted a resolution censuring him for "reprehensible" conduct). Other sanctions may be also warranted, depending on the facts. For example, in Earnest v. Jasper Cty. Comm. Unit Sch. Dist. No. 1, 371 F.Supp.3d 459 (S.D.Ill 2019), a court held a board member was not deprived of his liberty interest under the 14th Amendment when the board limited his access to confidential board packet information after it found the board member shared confidential personnel and student information with members of the public.

To encourage appropriate conduct, boards may wish to have their policy express potential consequences for violating the oath of office or the *Code of Conduct for Members of School Boards*. Such boards may add the following sentence to the end of this policy. Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center Executive Director."

A board member who fails to abide by the oath of office or the *Code* may be subject to action by the Board, including, but not limited to, formal censure and/or referral to the Regional Superintendent for removal from office under Board policy 2:60, *Board Member Removal from Office*.

² Replace "Board of Education" with "Board of School Directors" throughout, when applicable.

I further swear (or affirm) that:

I shall respect taxpayer interests by serving as a faithful protector of the School District's assets;

I shall encourage and respect the free expression of opinion by my fellow Board members and others who seek a hearing before the Board, while respecting the privacy of students and employees;

I shall recognize that a Board member has no legal authority as an individual and that decisions can be made only by a majority vote at a public Board meeting;

I shall abide by majority decisions of the Board, while retaining the right to seek changes in such decisions through ethical and constructive channels;

As part of the Board of Education, I shall accept the responsibility for my role in the equitable and quality education of every student in the School District;

I shall foster with the Board extensive participation of the community, formulate goals, define outcomes, and set the course for (*name of School District*);

I shall assist in establishing a structure and an environment designed to ensure all students have the opportunity to attain their maximum potential through a sound organizational framework;

I shall strive to ensure a continuous assessment of student achievement and all conditions affecting the education of our children, in compliance with State law;

I shall serve as education's key advocate on behalf of students and our community's school (or schools) to advance the vision for (*name of School District*); and

I shall strive to work together with the District Superintendent to lead the School District toward fulfilling the vision the Board has created, fostering excellence for every student in the areas of academic skills, knowledge, citizenship, and personal development.

The Board President will administer the oath in an open Board meeting; in the absence of the President, the Vice President will administer the oath. If neither is available, the Board member with the longest service on the Board will administer the oath.³

The Board adopts the Illinois Association of School Boards' *Code of Conduct for Members of School Boards (Code)*.⁴ A copy of the *Code* shall be displayed in the regular Board meeting room.

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

³ Optional. State law allows the board to determine how the oath is administered. 105 ILCS 5/10-16.5. Use the following alternative if a board does not want anyone to administer the oath:

Each Board member who is taking office shall read the oath during an open meeting and swear or affirm to follow it as indicated in the oath.

If the Board's practice is to have a local official administer the oath, revise the paragraph as follows:

The Board President may designate a local official, such as a judge, to administer the oath at an open Board meeting. Otherwise, the Board President will administer the oath during an open Board meeting; in the absence of the President, the Vice President will administer the oath.

⁴ Although national and state associations have developed codes of conduct, each board may find it helpful, as part of its self-evaluation process, to consider what behavior members expect from each other. The resulting ethics statement may serve as an important step in new member orientation. Additionally, IASB provides a resource, *School Board Member Opportunities and Expectations*, that includes a summary of the treatment that all board members are entitled to expect as members of the school board. For IASB resources, see www.iasb.com/conference-training-and-events/training/training-resources/.

LEGAL REF.: 105 ILCS 5/10-16.5.

CROSS REF.: 1:30 (School District Philosophy), 2:20 (Powers and Duties of the School Board; Indemnification), 2:50 (Board Member Term of Office), 2:60 (Board Member Removal from Office), 2:100 (Board Member Conflict of Interest), 2:105 (Ethics and Gift Ban), 2:210 (Organizational School Board Meeting)

School Board

Board-Superintendent Relationship ¹

The School Board directs, through policy, the Superintendent in his or her charge of the administration of the District by delegating its authority to operate the District and provide leadership to staff. The Board employs and evaluates the Superintendent and holds him or her responsible for the operation of the District in accordance with Board policies and State and federal law. ²

The Board-Superintendent relationship is based on mutual respect for their complementary roles. The relationship requires clear communication of expectations regarding the duties and responsibilities of both the Board and Superintendent.

The Board considers the recommendations of the Superintendent as the District's Chief Executive Officer. The Board adopts policies necessary to provide direction for the District and to encourage achievement of District goals. The Superintendent develops plans, programs, and procedures needed to implement the policies and directs the District's operations.

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

CROSS REF.: 3:40 (Superintendent)

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 5/10-16.7 requires the board to make all employment decisions pertaining to the superintendent as well as "[to] direct, through policy, the superintendent in his or her charge of the administration of the school district, including without limitation considering the recommendations of the superintendent concerning the budget, building plans, the locations of sites, the selection, retention, and dismissal of employees, and the selection of textbooks, instructional material, and courses of study." It also requires the "board [to] evaluate the superintendent in his or her administration of school board policies and his or her stewardship of the assets of the district."

Open and honest communication between the board and superintendent about expectations is crucial. The superintendent and board should periodically discuss, for example, the amount, type, and timing of information each expects to give and receive. Discussing each party's role and using an annual, formal superintendent evaluation process that includes a written evaluation instrument will further clarify role expectations.

² Boards may want to incorporate additional governance concepts into the first paragraph, e.g., by holding the superintendent responsible for progress toward district ends. See IASB's *Foundational Principles of Effective Governance*, www.iasb.com/principles_popup.cfm. The IASB guide titled *The Superintendent Evaluation Process* contains information on strengthening the board-superintendent relationship. It is available at: www.iasb.com/training/superintendent-evaluation-process.pdf.

School Board

Board Policy Development¹

The School Board governs using written policies. Written policies ensure legal compliance, establish Board processes, articulate District ends, delegate authority, and define operating limits. Board policies also provide the basis for monitoring progress toward District ends.²

Policy Development

Anyone may propose new policies, changes to existing policies, or deletion of existing policies. Staff suggestions should be processed through the Superintendent. Suggestions from all others should be made to the Board President or the Superintendent.

A Board Policy Committee will consider all policy suggestions and provide information and recommendations to the Board.³

The Superintendent is responsible for: (1) providing relevant policy information and data to the Board, (2) notifying those who will implement or be affected by or required to implement a proposed policy and obtaining their advice and suggestions, and (3) having policy recommendations drafted into written form for Board deliberation. The Superintendent shall seek the counsel of the Board Attorney when appropriate.

Policy Adoption and Dissemination

Policies or policy revisions will not be adopted at the Board meeting at which they are first introduced, except when: (1) appropriate for a consent agenda because no Board discussion is required, or (2) necessary or prudent in order to meet emergency or special conditions or to be legally compliant.⁴ Further Board consideration may be given at a subsequent meeting(s) and after opportunity for community input. The adoption of a policy will serve to supersede all previously adopted policies on the same topic.

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 this subject matter be covered by policy. See 105 ILCS 5/10-20.5 and 5/10-16.7.

105 ILCS 5/10-16.7 requires the board to make all employment decisions pertaining to the superintendent as well as “to direct, through policy, the superintendent in his or her charge of the administration of the school district, including, without limitation, considering the recommendations of the superintendent concerning the budget, building plans, the locations of sites, the selection, retention, and dismissal of employees, and the selection of textbooks, instructional material, and courses of study.” Rather than being a laundry list of mandated written board policies, this statute provides items on which boards must make decisions after considering the superintendent’s recommendations. The statute also requires the “board [to] evaluate the superintendent in his or her administration of board policies and his or her stewardship of the assets of the district.” Boards have broad incidental powers to adopt all necessary policies. Thomas v. Bd. of Educ. of Cmty. Unit Sch. Dist. 1, 117 Ill.App.3d 374 (5th Dist. 1983).

² See the IASB’s *Foundational Principles of Effective Governance*, available online at: www.iasb.com/pdf/found_prin.pdf.

³ Optional. See sample policy 2:150, *Committees*.

⁴ State law does not require a first reading before a board adopts a policy. The use of a consent agenda allows a board to vote on a matter without discussion. Policies or policy revisions may be appropriate for a consent agenda when providing for legal compliance; updating legal references; correcting substantive grammar, spelling, or punctuation; or clarifying pre-existing policy language. A board member may make a motion to remove any item from the consent agenda to the regular agenda for discussion. See sample policy 2:220, *School Board Meeting Procedure*.

The Board policies are available for public inspection in the District's main office during regular office hours.⁵ Copy requests should be made pursuant to Board policy 2:250, *Access to District Public Records*.

Board Policy Review and Monitoring

The Board will periodically review its policies for relevancy, monitor its policies for effectiveness, and consider whether any modifications are required. The Board may use an annual policy review and monitoring calendar.⁶

Words Importing Gender⁷

Throughout this policy manual, words importing the masculine and/or feminine gender include all gender neutral/inclusive pronouns.

Superintendent Implementation

The Board will support any reasonable interpretation of Board policy made by the Superintendent.⁸ If reasonable minds differ, the Board will review the applicable policy and consider the need for further clarification.

In the absence of Board policy, the Superintendent is authorized to take appropriate action.

Suspension of Policies

The Board, by a majority vote of members present at any meeting, may temporarily suspend a Board policy except those provisions that are controlled by law or contract. The failure to suspend with a specific motion does not invalidate the Board action.

LEGAL REF.: 105 ILCS 5/10-20.5.

CROSS REF.: 2:150 (Committees), 2:250 (Access to District Public Records), 3:40 (Superintendent)

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

⁵ This sentence must be customized to include where and how policies are available, such as, through School Board Policies Online or the district's website.

⁶ Optional. Examples of review and monitoring plans can be found here: www.iasb.com/IASB/media/Documents/Review-by-Policy-Manual.pdf and www.iasb.com/IASB/media/Documents/Hybrid-Approach.pdf.

⁷ Optional. Consult the board attorney to determine whether inclusion of a subhead related to gender neutral/inclusive pronouns is appropriate for the district. This subhead's text mirrors language from the Ill. Statute on Statutes importing words applying the masculine gender to include the female gender. See 5 ILCS 70/1.04.

For students, State law prohibits gender-based discrimination, including transgender and gender non-conforming students. 775 ILCS 5/5-101(A)(11); 775 ILCS 5/1-103(O-1); and 23 Ill.Admin.Code §1.240. Title IX of the Education Amendments of 1972 (20 U.S.C. §1681) also prohibits exclusion and discrimination on the basis of sex. 20 U.S.C. §1681(a). See also sample policy 7:10, *Equal Educational Opportunities*.

For employees, Title VII of the Civil Rights Act of 1964 prohibits discrimination because of an individual's sex, which includes sexual orientation and/or transgender status. See 42 U.S.C. §2000e *et seq.*, amended by The Lilly Ledbetter Fair Pay Act of 2009, Pub.L. 111-2; *Bostock v. Clayton Cnty.*, 590 U.S. 644 (2020); and *Hively v. Ivy Tech*, 853 F.3d 339 (7th Cir. 2017). See also sample policy 5:10, *Equal Employment Opportunity and Minority Recruitment*.

⁸ The board delegates authority to the superintendent through written board policy. The board will not substitute its judgment for that of the superintendent when the superintendent acts reasonably based upon his or her policy interpretation. See the IASB's *Foundational Principles of Effective Governance*, available online at: www.iasb.com/pdf/found_prin.pdf.

General School Administration

Chain of Command

The Superintendent shall develop an organizational chart indicating the channels of authority and reporting relationships for school personnel. These channels should be followed, and no level should be bypassed except in unusual situations. ¹

All personnel should refer matters requiring administrative action to the responsible administrator, and may appeal a decision to a higher administrative officer. Whenever possible, each employee should be responsible to only one immediate supervisor. When this is not possible, the division of responsibility must be clear.

CROSS REF.: 1:20 (District Organization, Operations, and Cooperative Agreements), 2:140 (Communications To and From the Board), 3:70 (Succession of Authority), 8:110 (Public Suggestions and Concerns)

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

¹ The chain of command communicates the channels of authority that should be consistently followed with informal conversations that can solve issues without use of the more formal policy 2:260, *Uniform Grievance Procedure*, other administrative procedures, and/or collective bargaining agreements. See IASB's *Foundational Principles of Effective Governance*, at www.iasb.com/principles_popup.cfm.

Operational Services

Payment Procedures ¹

The Treasurer shall prepare a list of all due and payable bills, indicating vendor name and amount, and shall present it to the School Board in advance of the Board's first regular monthly meeting or, if necessary, a special meeting. These bills are reviewed by the Board, after which they may be approved for payment by Board order.² Approval of all bills shall be given by a roll call vote, and the votes shall be recorded in the minutes.³ The Treasurer shall pay the bills after receiving a Board order or pertinent portions of the Board minutes, even if the minutes are unapproved, provided the order or minutes are signed by the Board President and Secretary, or a majority of the Board. ⁴

The Treasurer is authorized, without further Board approval, to pay Social Security taxes, wages, pension contributions, utility bills, and other recurring bills.⁵ These disbursements shall be included in the listing of bills presented to the Board.

The Board authorizes the Superintendent or designee to establish revolving funds and a petty cash fund system for school cafeterias, lunchrooms, athletics, or similar purposes, provided such funds are maintained in accordance with Board policy 4:80, *Accounting and Audits*, and remain in the custody of an employee who is properly bonded according to State law. ⁶

LEGAL REF.: 105 ILCS 5/8-16, 5/10-7, and 5/10-20.19.
23 Ill.Admin.Code §100.70.

CROSS REF.: 4:55 (Use of Credit and Procurement Cards), 4:60 (Purchases and Contracts),
4:80 (Accounting and Audits)

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

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

² 105 ILCS 5/8-16 and 5/10-20.19.

³ 105 ILCS 5/10-7.

⁴ Except for the payment of social security taxes and recurring bills, 105 ILCS 5/8-16 permits the treasurer to "pay out funds of the school district only upon an order of the board signed by the president and clerk or secretary or by a majority of the board." 105 ILCS 5/10-20.19 grants the treasurer authority to pay bills after receipt of "a certified copy of those portions of the board minutes, properly signed by the secretary and president, or a majority of the board." As minutes are not approved until the following meeting, a literal reading of this statute would result in late payments. The policy uses a pragmatic solution: the treasurer may pay bills upon receiving a board order or minutes, even if the minutes are unapproved, provided the order or minutes are signed by the president and secretary, or a majority of the board.

The Local Government Prompt Payment Act (50 ILCS 505/) governs the timelines for a board's approval and payment of bills and potential penalties for late payment. Unless otherwise agreed to between the board and a vendor/contractor, bills must be approved or disapproved within 30 days after receipt of the bill or 30 days after the date on which the goods or services are received, whichever is later, and payment is due within 30 days after the date of approval. 50 ILCS 505/3, 505/4, and 505/6.

⁵ 105 ILCS 5/8-16 and 5/10-20.19.

⁶ 105 ILCS 5/10-20.19(2); 23 Ill.Admin.Code §100.70.

Operational Services

Use of Credit and Procurement Cards ¹

The Superintendent and employees designated by the Superintendent are authorized to use District credit and procurement cards to simplify the acquisition, receipt, and payment of purchases and travel expenses incurred on the District's behalf.² Credit and procurement cards shall only be used for those expenses that are for the District's benefit and serve a valid and proper public purpose; they shall not be used for personal purchases. Cardholders are responsible for exercising due care and judgment and for acting in the District's best interests.

The Superintendent or designee shall manage the use of District credit and procurement cards by employees. It is the Board's responsibility, through the audit and approval process, to determine whether District credit and procurement card use by the Superintendent is appropriate.

In addition to the other limitations contained in this and other Board policies, District credit and procurement cards are governed by the following restrictions:³

1. Credit and/or procurement cards may only be used to pay certain job-related expenses or to make purchases on behalf of the Board or District or any student activity fund, or for purposes that would otherwise be addressed through a conventional revolving fund.⁴
2. The Superintendent or designee shall instruct the issuing bank to block the cards' use at unapproved merchants.

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

¹ If district employees or board members are issued credit and/or procurement cards, an ISBE rule requires this subject matter to be covered in policy and specifies its content. 23 Ill.Admin.Code §100.70(d). Add the following optional new paragraph if the district issues credit cards to board members:

The District may from time-to-time issue and/or authorize Board members to use District credit cards to simplify the payment of actual and necessary expenses as authorized in Board policy 2:125, *Board Member Compensation; Expenses*. The Board will determine whether a Board member's use of a District credit card is appropriate through the expense approval process and the annual audit. All other components of this policy apply to a Board Member's use of a District credit card.

See f/n 19 in sample policy 2:125, *Board Member Compensation; Expenses* and ensure both policies are consistent in their treatment of this issue.

² The Local Government Travel Expense Control Act (50 ILCS 150/) requires districts to regulate the reimbursement of all travel, meal and lodging expenses of board members and employees. 50 ILCS 150/10. Consult the board attorney about how the Act affects the use of credit and procurement cards.

³ The policy's restrictions, numbered 1-10, correspond to the items that ISBE requires to be covered. Each item may be customized as long as the following items are covered as per 23 Ill.Admin.Code §100.70(d):

1. Identifies the allowable types of purchases;
2. Provides for the issuing bank to block the cards' use at unapproved merchants;
3. Limits the amount a cardholder can charge in a single purchase or within a given month;
4. Provides specific guidelines on purchases via telephone, fax, and the Internet;
5. Indicates the consequences for unauthorized purchases;
6. Requires cardholders to sign a statement affirming that they are familiar with the board's credit card policy;
7. Requires review and approval of purchases by someone other than the cardholder or user;
8. Requires submission of original receipts to document purchases; and
9. Forbids the use of a card to make purchases in a manner contrary to the requirements of 105 ILCS 5/10-20.21.
10. Indicates how financial or material rewards or rebates are to be accounted for and treated.

⁴ This limitation is from the introductory sentence in 23 Ill.Admin.Code §100.70(d).

3. Each cardholder, other than the Superintendent, may charge no more than \$500 in a single purchase and no more than \$1000 within a given month without prior authorization from the Superintendent. ⁵
4. The Superintendent or designee must approve the use of a District credit or procurement card whenever such use is by telephone, fax, and the Internet. Permission shall be withheld when the use violates any Board policy, is from a vendor whose reputation has not been verified, or would be more expensive than if another available payment method were used.
5. The consequences for unauthorized purchases include, but are not limited to, reimbursing the District for the purchase amount, loss of cardholding privileges, and, if made by an employee, discipline up to and including discharge.
6. All cardholders must sign a statement affirming that they are familiar with this policy. ⁶
7. The Superintendent shall implement a process whereby all purchases using a District credit or procurement card are reviewed and approved by someone other than the cardholder or someone under the cardholder's supervision.
8. Cardholders must submit the original, itemized receipt to document all purchases.
9. No individual may use a District credit or procurement card to make purchases in a manner contrary to State law, including, but not limited to, the bidding and other purchasing requirements in 105 ILCS 5/10-20.21, or any Board policy.
10. The Superintendent or designee shall account for any financial or material reward or rebate offered by the company or institution issuing the District credit or procurement card and shall ensure that it is used for the District's benefit.

LEGAL REF.: 105 ILCS 5/10-20.21.
23 Ill.Admin.Code §100.70(d).

CROSS REF.: 4:50 (Payment Procedures), 4:60 (Purchases and Contracts), 4:80 (Accounting and Audits), 4:90 (Student Activity and Fiduciary Funds), 5:60 (Expenses)

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

⁵ The dollar caps are at the local board's discretion. An alternative follows: "The Superintendent shall limit the amount each cardholder may charge in a single purchase or within a given month and inform the issuing bank of these limitations."

⁶ See sample exhibit 4:55-E, *Cardholder's Statement Affirming Familiarity with Requirements for Using District Credit and/or Procurement Cards*.

Operational Services

Pandemic Preparedness; Management; and Recovery ¹

The School Board recognizes that the District will play an essential role along with the local health department and emergency management agencies in protecting the public's health and safety during a pandemic. ²

A pandemic is a global outbreak of disease. Pandemics happen when a new virus emerges to infect individuals and, because there is little to no pre-existing immunity against the new virus, it spreads sustainably. ³

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

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

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

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

See f/n 3, below for a definition of a pandemic.

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

³ This paragraph embodies the CDC's pandemic definition. See www.cdc.gov/pandemic-flu/basics/index.html. The **Illinois Pandemic Influenza Preparedness and Response Plan**, Version 5.0, May 2014, also defines pandemic at page 9; however, that definition is specific to influenza. The COVID-19 coronavirus is not an influenza virus yet was characterized as a pandemic by WHO.

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

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

identify priorities and oversee the development and implementation of a comprehensive pandemic school action plan; and (3) build awareness of the final plan among staff, students, and community.

Emergency School Closing⁵

In the case of a pandemic, the Governor may declare a disaster due to a public health emergency that may affect any decision for an emergency school closing. Decisions for an emergency school closing will be made by the Superintendent in consultation with and, if necessary, at the direction of the

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⁵ In times of emergency, the functions of different levels of State and federal government often become cloudy, and determining what governmental entity has powers to take a particular action can be confusing. The concept of federalism, or the coexistence of federal and state governments with their own local powers, was utilized during the response to the COVID-19 pandemic. Federalism is premised on the Constitutional limits of federal power. See U.S. Const. Art. I, Sec. 8 (limiting powers of Congress providing only those powers enumerated). Generally, during the COVID-19 pandemic, Illinois and other states were left with these remaining powers of government to respond to the crisis. The states' governors and local leaders made state-specific or locality-specific decisions based upon the local conditions in each community. Depending upon the federal administration in power at the time of a pandemic, the federal government may seek to play a greater or lesser role in the management of a pandemic.

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

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

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

During the 2009 H1N1 outbreak, ISBE directed schools with a statement titled *Closing School in Response to H1N1* that outlined “the decision to close school must be made locally by the school district and in conjunction and support with the relevant local public health department. The impact of a pandemic may vary from region to region. Therefore, it is crucial that district administrators rely on the advice and recommendations of their local public health department.” During the COVID-19 pandemic, the Governor and ISBE issued many directives and/or guidance, including reliance upon the advice and recommendations of local public health departments. See www.isbe.net/Pages/covid19.aspx. And see IDPH-ISBE joint summary of the CDC's guidance for prevention of COVID-19 in schools, at: https://dph.illinois.gov/content/dam/soi/en/web/idph/covid19/guidance/school/School-Guidance_6.13.2023.pdf.

During the COVID-19 pandemic, protests occurred and many lawsuits were filed challenging Gov. Pritzker's extensions of disaster declaration emergency power under the Ill. Emergency Management Act (IEMA), 20 ILCS 3305/7. Controversies existed across party and regional lines with all branches of government looking to balance the need to protect human life against the desire to preserve personal liberty. Gov. Pritzker's Executive Orders (EOs) faced unsettled challenges in both the courts of law and public opinion as a five-phased plan to re-open Illinois was also being introduced a/k/a *Restore Illinois Plan*. Certain EOs required schools to implement specific mitigations, including universal indoor masking, exclusion of close contacts, and vaccination/testing mandates for school personnel. The EOs and the implementing emergency rules adopted by ISBE and IDPH were the subject of frequent litigation. See *Austin v. Bd. of Educ. of Cmty. Unit. Sch. Dist. 300 et al. v. Pritzker*, 2022 IL 128205 (Ill. 2022). The scope of the Governor's authority over schools in a pandemic remains unsettled. Some school personnel objected to the vaccination/testing mandate under the Health Care Right of Conscience Act (HCRCA), 745 ILCS 70/. The General Assembly subsequently amended the HCRCA to clarify that it is not a violation of the HCRCA for public officials or employers to require services by health care personnel (such as testing) intended to prevent the transmission of COVID-19. 745 ILCS 70/13.5. Following the HCRCA amendment, an Illinois appellate court denied plaintiff employees emergency relief from the vaccination/testing mandate for school personnel, finding that their claims under the HCRCA were unlikely to succeed. *Glass v. Dept. of Corrections, et al.*, 461 Ill.Dec. 384 (4th Dist. 2022).

Governor, Ill. Dept. of Public Health, District's local health department, emergency management agencies, and/or Regional Office of Education. ⁶

During an emergency school closing, the Board President and the Superintendent⁷ may, to the extent the emergency situation allows, examine existing Board policies pursuant to Policy 2:240, *Board Policy Development*, and recommend to the Board for consideration any needed amendments or suspensions to address mandates that the District may not be able to accomplish or implement due to a pandemic. ⁸

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

A disaster declaration related to a public health emergency¹⁰ may affect the Board's ability to meet in person and generate a quorum of members who are physically present at the location of a meeting. Policy 2:220, *School Board Meeting Procedure*, governs Board meetings by video or audio conference without the physical presence of a quorum.

Payment of Employee Salaries During Emergency School Closures ¹¹

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

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

⁷ For a board that prefers its policy committee to engage in this work, delete Board President and the Superintendent and insert: Board Policy Committee. See policies 2:150, *Committees* and 2:240, *Board Policy Development*. This sample policy uses the board president and superintendent as the default text because during a pandemic, it may be difficult for a board policy committee to meet pursuant emergency executive orders that are issued, etc.

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

⁹ 5 ILCS 120/2.01 and 120/7(e). See also 105 ILCS 5/10-6, 5/10-12, and 5/10-16.

¹⁰ While 5 ILCS 120/7(e)(1) uses the phrase "related to public health concerns," the text "due to public health emergency" aligns with IEMA, 20 ILCS 3305/4 and 7, the governing statute of disaster declarations. For ease of understanding and alignment with IEMA, this policy uses "public health emergency." For more discussion, see f/n 33 in sample policy 2:220, *School Board Meeting Procedure*.

¹¹ This may be required if a district wishes to continue to charge employee salaries and benefits to a grant during an extended school closure, depending upon the specific terms of government orders and/or guidance issued during a pandemic. 2 C.F.R. Part 200 (see, e.g., www.whitehouse.gov/wp-content/uploads/2020/03/M-20-17.pdf, which was extended until 9-30-20 by www.whitehouse.gov/wp-content/uploads/2020/06/M-20-26.pdf) and 30 ILCS 708/.

During the COVID-19 pandemic, Gov. Pritzker and ISBE issued directives and/or guidance regarding payment of school district employees that may impact a board's decision regarding continued payment of employees during an extended closure. ISBE and the Governor suspended in-person learning and issued a Joint Statement (JS) with other school administrator and union groups, which purported to mandate that all school district employees on the district's payroll be paid as if districts were functioning normally and they were performing their normal work. See www.isbe.net/Documents/Joint-Statement-Updated%203-27-20.pdf. The JS cited no specific authority for the payment mandate. Additionally, changes to wages, hours, terms and conditions of employment, even when made during an extraordinary circumstance such as a pandemic, remain subject to collective bargaining obligations.

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

When the Governor declares a disaster due to a public health emergency pursuant to 20 ILCS 3305/7, and the State Superintendent of Education declares a requirement for the District to use *Remote Learning Days* or *Blended Remote Learning Days*, the Superintendent shall approve and present to the Board for adoption a Remote and/or Blended Remote Learning Day Plan¹² (Plan) that: ¹³

1. Recommends to the Board for consideration any suspensions or amendments to curriculum-related policies to reduce any Board-required graduation or other instructional requirements in

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¹² 105 ILCS 5/10-30(3) requires the “[board] to adopt and the superintendent to approve” these plans upon the following statutory triggers: (1) the governor declaring a disaster pursuant to 20 ILCS 3305/, and (2) the state superintendent of education declaring a requirement for a school district, multiple school districts, a region, or the entire State. See sample administrative procedure 6:20-AP, *Remote and/or Blended Remote Learning Day Plan(s)* for the specifics of implementing Remote Learning Days (RLDs) and/or Blended Remote Learning Days (BLRDs).

Implementing a plan under this subhead contains items on which collective bargaining may be required. Any policy that impacts wages, hours, or terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. This subhead of the policy concerns an area in which the law is unsettled. See 105 ILCS 5/10-30(7) (stating that it does not increase or diminish any collective bargaining rights under existing law). Aspects of the plan that impact the wages or other terms or conditions of employment will need to be bargained with the exclusive bargaining representative(s).

To avoid confusion, note that the triggers under the Open Meetings Act (OMA), 5 ILCS 120/7(e) for when a school board may conduct its meetings by audio or video conference without the physical presence of a quorum are a bit more broad: (1) the “governor **or the director of IDPH** has issued a disaster declaration as defined in 20 ILCS 3305/, and (2) all or part of the jurisdiction of the [school board] is covered by the disaster area. This means that it is possible for the board to meet remotely under OMA if the director of IDPH declares a disaster, but the School Code requires the governor to be the one to declare the disaster under 20 ILCS 3305/ in order for the state superintendent of education to declare that a district implement RLD/BLRDs. RLD/BLRDs and *e-learning days/e-learning programs* are different. RLD/BLRDs are for use when the governor declares a disaster under 20 ILCS 3305/ and the state superintendent has declared a requirement for the district to use them to provide remote instruction to pre-kindergarten through grade 12 that count as pupil attendance days under 105 ILCS 5/10-19.05(j-5). 105 ILCS 5/10-30(1). BLRDs allow districts to utilize hybrid models of in-person and remote instruction. E-learning days are part of an e-learning program that require a board to, among other things, hold a public hearing and obtain approval by the Regional Office of Education (or Intermediate Service Center) to allow the district to provide instruction to students electronically while they are not physically present in lieu of the district's scheduled emergency days as required under 105 ILCS 5/10-19 or because a school was selected to be a polling place under 10 ILCS 5/11-4.1. 105 ILCS 5/10-20.56(b), amended by P.A. 103-780. School districts with e-learning programs may adapt them for use during RLDs and BLRDs (105 ILCS 5/10-20.56(a) and 5/10-30(2)).

If the board has adopted an e-learning program pursuant to 105 ILCS 5/10-20.56, add the following text to number two after 105 ILCS 5/10-30:

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

See sample policies 6:20, *School Year Calendar and Day*, 6:300, *Graduation Requirements*, and 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students*, and Executive Order 2020-31 (temporarily suspending certain State assessment and graduation requirements (not local requirements that exceed the State-identified minimums)) and allowing local school boards to amend policies to reduce any local graduation requirements adopted in excess of the minimum requirements specified in School Code that school districts were unable to complete during the 2019-20 school year due to the suspension of in-person instruction and/or the Stay-at-Home orders issued in response to the COVID-19 pandemic).

¹³ 105 ILCS 5/10-30(3) states “the district shall adopt a remote and blended remote learning day plan approved by the district superintendent.” For ease of administration, to avoid confusion during implementation, and to align with the IASB Foundational Principles of Effective Governance (www.iasb.com/principles_popup.cfm), this policy assigns the duty to *adopt* the remote and blended remote learning day plan (plan) by “the district” to the board. In alignment with this policy, sample administrative procedure 6:20-AP, *Remote and/or Blended Remote Learning Day Plan(s)*, requires the superintendent to approve the plan and present it to the board for *adoption* prior to district-wide implementation and posting on the district's website.

- excess of minimum curricular requirements specified in School Code that the District may not be able to provide due to the pandemic; ¹⁴
2. Implements the requirements of 105 ILCS 5/10-30; and
 3. Ensures a plan for periodic review of and/or amendments to the Plan when needed and/or required by statute, regulation, or State guidance.

LEGAL REF.: 105 ILCS 5/10-16.7, 5/10-20.5, 5/10-20.56, and 5/10-30.
5 ILCS 120/2.01 and 120/7(e), Open Meetings Act.
20 ILCS 2305/2(b), Ill. Dept. of Public Health Act (Part 1).
20 ILCS 3305/, Ill. Emergency Management Agency Act.
115 ILCS 5/, Ill. Educational Labor Relations Act.

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

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

¹⁴ 105 ILCS 5/10-30(8) does not excuse districts from completing all statutory and regulatory curricular mandates and offerings.

Students

Nonpublic School Students, Including Parochial and Home-Schooled Students ¹

Part-Time Attendance

The District accepts nonpublic school students, including parochial and home-schooled students, who live within the District for part-time attendance in the District's regular education program on a space-available basis.² Requests for part-time attendance must be submitted to the Building Principal of the school in the school attendance area where the student resides. All requests for attendance in the following school year must be submitted before May 1.³

A student accepted for partial enrollment must comply with all discipline and attendance requirements established by the school. He or she may participate in any co-curricular activity associated with a District class in which he or she is enrolled. The parent(s)/guardian(s) of a student accepted for partial enrollment must pay all fees, pro-rated on the basis of a percentage of full-time fees. Transportation to and/or from school is provided on regular bus routes to or from a point on the route nearest or most easily accessible to the nonpublic school or student's home. This transportation shall be on the same basis as the District provides transportation for its full-time students.⁴ Transportation on other than established bus routes is the responsibility of the parent(s)/guardian(s).

Students with a Disability ⁵

The District accepts for part-time attendance those children for whom it has been determined that special education services are needed, are enrolled in nonpublic schools, and otherwise qualify for enrollment in the District. Requests must be submitted by the student's parent/guardian. Special educational services shall be provided to such students as soon as possible after identification,

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¹ State or federal law controls this policy's content. The compulsory attendance law requires that parents/guardians of a child between the ages of 7 and 17 years send their child to public school. 105 ILCS 5/26-1 *et seq.* An exception is provided for any child attending a private or parochial school "where children are taught the branches of education taught to children of corresponding age and grades in public schools, and where the instruction of the child in the branches of education is in the English language." *Id.* Home schooling is included in this exception if the teacher is competent, the required subjects are taught, and the student receives an education that is at least equivalent to public schooling. *People v. Levisen*, 404 Ill. 574 (1950).

² As of January 1, 1996, many of the duties imposed on school boards became powers. 105 ILCS 5/10-20. Thus, boards have the power to accept students enrolled in nonpublic schools for part-time attendance. 105 ILCS 5/10-20.24. A board should consult its attorney before deciding not to accept nonpublic students for part-time attendance.

³ *Id.* The deadline for submitting a request is at the local district's option. Consult the board attorney if the district or a school receives a request after this deadline.

⁴ Such transportation is required by 105 ILCS 5/29-4.

⁵ This paragraph restates State law. 105 ILCS 5/14-6.01. Federal law requires districts to develop and implement a system to locate, identify, and evaluate children with disabilities who attend private schools (including religiously affiliated schools and home-schools) located within the district. Moreover, the district must conduct child find activities for private school children with disabilities that are similar to those for children with disabilities in public schools. See 34 C.F.R. §§300.130-300.144 (children with disabilities enrolled by their parents in private schools). See Section 2, **Child Find**, in the IASB/III. Council of School Attorneys sample *Special Education Procedures Assuring the Implementation of Comprehensive Programming for Children with Disabilities*, at www.iasb.com/law/icsaspedcd.cfm. See the U.S. Dept. of Education publication *Provisions Related to Children with Disabilities Enrolled by their Parents in Private Schools*, available at www.ed.gov/sites/ed/files/admins/lead/specced/privateschools/idea.pdf.

evaluation, and placement procedures provided by State law, but no later than the beginning of the next school semester following the completion of such procedures. Transportation for such students shall be provided only if required in the child's Individualized Educational Program on the basis of the child's disabling condition or as the special education program location may require.

Extracurricular Activities, Including Interscholastic Competition

A nonpublic school student is eligible to participate in: (1) interscholastic competition, provided his or her participation adheres to the regulations established by any association in which the District maintains a membership, and (2) non-athletic extracurricular activities, provided the student attends a District school for at least one-half of the regular school day, excluding lunch.⁶ A nonpublic student who participates in an extracurricular activity is subject to all policies, regulations, and rules that are applicable to other participants in the activity.

Assignment When Enrolling Full-Time in a District School

Grade placement by, and academic credits earned at, a nonpublic school will be accepted if the school has a Certificate of Nonpublic School Recognition from the Ill. State Board of Education, or, if outside Illinois, if the school is accredited by the state agency governing education.⁷

A student who, after receiving instruction in a non-recognized or non-accredited school, enrolls in the District will: (1) be assigned to a grade level according to academic proficiency, and/or (2) have academic credits recognized by the District if the student demonstrates appropriate academic proficiency to the school administration.⁸ Any portion of a student's transcript relating to such instruction will not be considered for placement on the honor roll or computation in class rank.⁹

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

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⁶ State law is silent on this issue, allowing districts to set their own participation requirements. However, the Ill. High School Association Bylaws, 3.011 and 4.011, state that in order to be eligible to participate in interscholastic competition a student must be enrolled in a district school and take a minimum of 25 credit hours of work for which the district will grant high school credit upon the student completing and passing the courses. If the board decides not to allow such participation, consider omitting this section of the policy and substituting:

Nonpublic school students, regardless of whether they attend a District school part-time, will not be allowed to participate in any extracurricular activities.

⁷ This paragraph is optional; districts are not required to accept the grade placement or academic credits from nonpublic schools. However, the Ill. State Board of Education (ISBE) provides a *recognition* status to nonpublic schools in order to, among other things, provide assurance that the school's educational program meets at least minimum State requirements. See 105 ILCS 5/2-3.25o; 23 Ill.Admin.Code Part 425, and ISBE's guidance at: www.isbe.net/Pages/Nonpublic-Elementary-and-Secondary-School-Registration-and-Recognition.aspx. Nonpublic schools may seek a *Certificate of Nonpublic School Recognition* by complying with these guidelines. While nonpublic school certification is entirely voluntarily, only nonpublic schools that have met the voluntary recognition requirements are eligible to receive school safety and education improvement block grant funding. See 23 Ill.Admin.Code §425.80.

⁸ The question whether to award academic credit based on proficiency is complex. If credit is not given, any incoming secondary student from a nongraded school begins high school as a freshman, regardless of age or proficiency. On the other hand, to award credit based on a student's proficiency only if the student is transferring from a nongraded school will seem unfair to other students. State law is silent on this issue and boards should consult their administrative team for guidance.

⁹ Optional.

LEGAL REF.: 105 ILCS 5/10-20.24 and 5/14-6.01.

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

Students

Release During School Hours ¹

For safety and security reasons, a prior written or oral consent of a student's custodial parent/guardian is required before a student is released during school hours: (1) at any time before the regular dismissal time or at any time before school is otherwise officially closed, and/or (2) to any person other than a custodial parent/guardian.

Early Dismissal Announcement

The Superintendent or designee shall make reasonable efforts to issue an announcement whenever it is necessary to close school early due to inclement weather or other reason.

Voting ² [*High school and unit districts only*]

The Superintendent or designee shall specify the hours during which students who are entitled to vote at a primary, general, or special election, or any election at which propositions are submitted to a popular vote in Illinois, may be absent from school for a period of two hours to vote. Students are entitled to be absent from school to vote beginning the 15th day before the primary, general, or

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¹ This sample policy and its contents are discretionary with each school board. Sample policy 4:170, *Safety*, authorizes the superintendent to close school(s) in the event of hazardous weather or other emergency that threatens the safety of students, staff members, or school property.

Planning for unforeseen early dismissals furthers a positive parent-school relationship and reduces the possibility of unsupervised children. According to this sample policy's introductory section, the school does not need prior parental consent before releasing students for an early dismissal even when it is unforeseen. The second section, however, requires the superintendent or designee to use *reasonable efforts* to announce an early dismissal. The *reasonable efforts* could be satisfied, for example, by a website posting, email notification, text message notification, telephone chain notification, or recorded message on the school's telephone.

² Optional. While 10 ILCS 5/7-42(b) and 5/17-15(b) do not require this information to be in policy, including it aligns with best practice (ensuring compliance and aligning with good governance principles).

Including it also serves several policy functions and purposes: ensuring legal compliance, directing or authorizing the superintendent or staff members, and/or providing information.

To implement this law, each board and superintendent may wish to engage in a conversation about balancing the students' right to be absent from school with the district's attendance and safety and security goals and its right to minimize disruption to the educational process and/or ensure orderly operation of a school. Factors affecting implementation will depend upon a board's local conditions and the community expectations that may include, but not be limited to: (1) the board attorney's recommendations, (2) the district's budget parameters, if any, for any increased security needs during the 15 days before and the day of the qualifying elections, (3) each individual building's unique needs, and (4) the community's expectations.

The superintendent and building principal may implement this policy differently in different buildings. Once the board and superintendent or designee determine implementation logistics, these should be communicated in student handbooks. A comprehensive student handbook can provide notice of the school's conduct rules, extracurricular and athletic participation requirements, and other important information. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. The Ill. Principals Association maintains a handbook service that coordinates with **PRESS** material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook.

For high school and unit districts not wanting to include this subhead, delete it and the Legal Reference to it in this policy, delete it from the Cross References in policy 7:70, *Attendance and Truancy*, and follow the instructions listed in paragraph three of f/n 6 of sample policy 7:70, *Attendance and Truancy*.

special election, or any election at which propositions are submitted to a popular vote in Illinois, or on the day of such election.

LEGAL REF.: 10 ILCS 5/7-42(b) and 5/17-15(b), Election Code.

CROSS REF.: 4:170 (Safety)

Students

Student Rights and Responsibilities ¹

All students are entitled to enjoy the rights protected by the U.S. and Illinois Constitutions and laws for persons of their age and maturity in a school setting.² Students should exercise these rights reasonably and avoid violating the rights of others. Students who violate the rights of others or violate District policies or rules will be subject to disciplinary measures.³

Students may, during the school day, during noninstructional time, voluntarily engage in individually or collectively initiated, non-disruptive prayer or religious-based meetings that, consistent with the Free Exercise and Establishment Clauses of the U.S. and Illinois Constitutions, are not sponsored, promoted, or endorsed in any manner by the school or any school employee.⁴ *Noninstructional time* means time set aside by a school before actual classroom instruction begins or after actual classroom instruction ends.⁵

LEGAL REF.: 20 U.S.C. §7904.
Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 (1969).
 105 ILCS 20/5, Silent Reflection and Student Prayer Act.

CROSS REF.: 7:140 (Search and Seizure), 7:150 (Agency and Police Interviews), 7:160 (Student Appearance), 7:190 (Student Behavior)

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

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

² In 1969 the U.S. Supreme Court changed the relationship between schools and students by finding that students "do not shed their constitutional rights at the schoolhouse door." Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 (1969).

³ Consult the board attorney to ensure the district's non-discrimination coordinator and complaint managers are trained to appropriately respond to allegations of discrimination based upon bullying and/or sexual violence under Title IX's sexual harassment umbrella. U.S. Dept. of Education (DOE) guidance states that while acts of sexual violence are crimes, they may also be discrimination under Title IX. See *Dear Colleague Letter: Sexual Violence Background, Summary, and Fast Facts*, U.S. Dept. of Education Office for Civil Rights, 111 LRP 23852 (April 4, 2011), at https://obamawhitehouse.archives.gov/sites/default/files/fact_sheet_sexual_violence.pdf.

⁴ This language is from 105 ILCS 20/5. The statute provides these examples of religious-based meetings: prayer groups, B I B L E (Basic Instruction Before Leaving Earth) clubs, and *meet at the flagpole for prayer* days. **Districts with secondary schools should amend the Cross References by adding "7:330 (Student Use of Buildings - Equal Access)."**

In addition, federal law requires districts to certify that "no [district] policy... prevents, or otherwise denies participation in, constitutionally protected prayer in both public elementary and secondary schools." 20 U.S.C. §7904(b). The State provides certification instructions and DOE provides guidance on constitutionally protected prayer in public schools. See *Guidance on Constitutionally Protected Prayer in Public Elementary and Secondary Schools*, www.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html. Certification with the Ill. State Board of Education occurs through the signed assurances that a superintendent provides through the grant application process.

⁵ 105 ILCS 20/5.

Students

Search and Seizure ¹

In order to maintain order and security in the schools, school authorities are authorized to conduct reasonable searches of school property and equipment, as well as of students and their personal effects. “School authorities” includes school liaison police officers. ²

School Property and Equipment as well as Personal Effects Left On School Property by Students

School authorities may inspect and search school property and equipment owned or controlled by the school (such as, lockers, desks, and parking lots), as well as personal effects left there by a student, without notice to or the consent of the student. Students have no reasonable expectation of privacy in these places or areas or in their personal effects left there. ³

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

¹ State or federal law controls this policy’s content. This policy concerns an area in which the law is unsettled. Consult the board’s attorney with questions about implementing this policy and searching students or seizing their possessions.

According to Fourth Amendment cases, a search by the police requires “probable cause” supported by a warrant. However, in a U.S. Supreme Court decision cited in every student search case, the Court upheld the warrantless search of a student. A search is: (1) justified at its inception when there are reasonable grounds for suspecting the search of a particular student will turn up evidence that the student violated the law or school rules, and (2) permissible in its scope when it is reasonably related to the search’s objective and not excessively intrusive. *T.L.O. v. New Jersey*, 469 U.S. 325 (1985).

² The Ill. Supreme Court upheld a search conducted by a school liaison officer, saying: “Decisions ... that involve police officers in school settings can generally be grouped into three categories: (1) those where school officials initiate a search or where police involvement is minimal, (2) those involving school police or liaison officers acting on their own authority, and (3) those where outside police officers initiate a search. Where school officials initiate the search or police involvement is minimal, most courts have held that the reasonable suspicion test [applies]. ...The same is true in cases involving school police or liaison officers acting on their own authority. ...However, where outside police officers initiate a search, or where school officials act at the behest of law enforcement agencies, the probable cause standard has been applied. In the present case, the record shows that Detective Ruettiger was a liaison police officer on staff at the Alternate School, which is a high school student with behavioral disorders. ... We hold that the reasonable suspicion standard applies under these facts.” *People v. Dilworth*, 169 Ill.2d 195 (1996).

³ The School Code allows school officials to inspect the personal effects left by a student on property owned or controlled by the school, e.g., lockers, desks, and parking lots. 105 ILCS 5/10-22.6(e). This law does not mean that school officials have an excuse for unjustifiably opening students’ possessions looking for contraband (see footnote 1). See *Doe v. Little Rick Sch. Dist.*, 380 F.3d 349 (8th Cir. 2004) (searches conducted pursuant to the following policy were unconstitutional: “[B]ook bags, backpacks, purses and similar containers are permitted on school property as a convenience for students,” and “if brought onto school property, such containers and their contents are at all times subject to random and periodic inspections by school officials.”).

The Fourth Amendment protects individuals from searches only when the person has a legitimate expectation of privacy. While case law supports that lockers, as school property, may be searched without individualized suspicion of wrongdoing, many cases suggest that in order to search a student’s possessions left in the locker, school officials need individualized suspicion of wrongdoing. This paragraph, as well as 105 ILCS 5/10-22.6(e), attempts to avoid Fourth Amendment protection for personal property left by students on school property by telling students not to expect privacy in these places or in their personal property left there. **This is an unsettled area of the law and should be reviewed with the school board’s attorney.**

Option for high school and unit districts, insert the following paragraph:

In addition, Building Principals shall require each high school student, in return for the privilege of parking on school property, to consent in writing to school searches of his or her vehicle, and personal effects therein, without notice and without suspicion of wrongdoing.

The Superintendent may request the assistance of law enforcement officials to conduct inspections and searches of lockers, desks, parking lots, and other school property and equipment for illegal drugs, weapons, or other illegal or dangerous substances or materials, including searches conducted through the use of specially trained dogs. ⁴

Students ⁵

School authorities may search a student and/or the student's personal effects in the student's possession (such as, purses, wallets, knapsacks, book bags, lunch boxes, etc.) when there is a reasonable ground for suspecting that the search will produce evidence the particular student has violated or is violating either the law or the District's student conduct rules. ⁶ The search itself must be conducted in a manner that is reasonably related to its objective and not excessively intrusive in light of the student's age and sex, and the nature of the infraction. ⁷

When feasible, the search should be conducted as follows: ⁸

1. Outside the view of others, including students,
2. In the presence of a school administrator or adult witness, and
3. By a licensed employee or liaison police officer of the same sex as the student.

Immediately following a search, a written report shall be made by the school authority who conducted the search, and given to the Superintendent.

Seizure of Property

If a search produces evidence that the student has violated or is violating either the law or the District's policies or rules, such evidence may be seized and impounded by school authorities, and

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⁴ 105 ILCS 5/10-22.6(e). The sample policy may be amended to name other staff members who are authorized to request law enforcement aid.

⁵ For more information about searches, seizures, and interviews of students, see *Guidelines for Interviews of Students at School by Law Enforcement Authorities*, published by the Ill. Council of School Attorneys and available at: www.iasb.com/law/ICSAGuidelinesforInterviewsofStudents.pdf.

⁶ T.L.O., 469 U.S. at 342. An unsubstantiated tip from a student may serve as the grounds for a search. People v. Pruitt, 278 Ill.App.3d 194 (1st. Dist. 1996).

⁷ 105 ILCS 5/10-22.6(e) and T.L.O., 469 U.S. at 326.

⁸ Optional; these are practical guidelines that will help to ensure that all searches comply with constitutional requirements. State or federal law requires nothing in this paragraph. For an alternative to intrusive pat-down searches and guidelines on strip searches, see Cornfield v. Consolidated High Sch. Dist. No. 230, 991 F.2d 1316 (7th Cir. 1993). There, school officials had reason to believe that a high school student was concealing illegal drugs in his crotch area. Believing a pat down to be excessively intrusive and ineffective at detecting drugs, the school officials required the student to change into his gym clothes in a locked locker room while male school officials observed him. The search was upheld. But see Stuczynski v. Bremen High Sch., 423 F.Supp.2d 823 (N.D.Ill. 2006) (the requisite individualized, reasonable suspicion to conduct a strip search was missing where the only reason for the strip search was the dean's belief that the students were the last students in a locker room before the money was reported missing.). See also Safford Unified Sch. Dist. v. Redding, 557 U.S. 364 (2009) (finding a strip search of student was not justified under the circumstances even though the asst. principal had reasonable suspicion but still awarded qualified immunity to the asst. principal because the law was unclear).

A school district may randomly conduct a mass search by using a metal detector. People v. Pruitt, 278 Ill.App.3d 194 (1st. Dist. 1996). The use of a metal detector must be according to the district's standards for when and how metal detector searches are to be conducted.

The U.S. Supreme Court upheld a random drug testing policy for student athletes and extracurricular participants. Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646 (1995); and Indep. Sch. Dist. No. 92 of Pottawatomie County v. Earls, 536 U.S. 822 (2002). The circumstances justifying random drug searches do not exist for the entire student body; thus, random drug tests of the student body would probably not survive constitutional scrutiny.

disciplinary action may be taken. When appropriate, such evidence may be transferred to law enforcement authorities.⁹

Notification Regarding Student Accounts or Profiles on Social Networking Websites¹⁰

The Superintendent or designee shall notify students and their parents/guardians of each of the following in accordance with the Right to Privacy in the School Setting Act, 105 ILCS 75/:

1. School officials may not request or require a student or his or her parent/guardian to provide a password or other related account information to gain access to the student's account or profile on a social networking website.
2. School officials may conduct an investigation or require a student to cooperate in an investigation if there is specific information about activity on the student's account on a social networking website that violates a school disciplinary rule or policy. In the course of an investigation, the student may be required to share the content that is reported in order to allow school officials to make a factual determination.

LEGAL REF.: T.L.O. v. New Jersey, 469 U.S. 325 (1985).
Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646 (1995).
Safford Unified Sch. Dist. No. 1 v. Redding, 557 U.S. 364 (2009).
105 ILCS 5/10-20.14, 5/10-22.6, and 5/10-22.10a.
105 ILCS 75/, Right to Privacy in the School Setting Act.
Cornfield v. Consolidated High Sch. Dist. No. 230, 991 F.2d 1316 (7th Cir. 1993).
People v. Dilworth, 169 Ill.2d 195 (1996), *cert. denied*, 517 U.S. 1197 (1996).
People v. Pruitt, 278 Ill.App.3d 194 (1st Dist. 1996), *app. denied*, 167 Ill.2d 564 (1996).

CROSS REF.: 7:130 (Student Rights and Responsibilities), 7:150 (Agency and Police Interviews), 7:190 (Student Behavior)

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

⁹ See 105 ILCS 5/10-22.6(e).

¹⁰ Right to Privacy in the School Setting Act, 105 ILCS 75/15. This law prohibits school officials from requiring or requesting a student to provide a password or other related account information. It requires districts to provide parents/guardians with notice of the law. The notification must be published in the school's disciplinary rules, policies, or handbook, or communicated by similar means. The Ill. Principals Association maintains a handbook service that coordinates with PRESS material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/msh/.

Students

Extracurricular Athletics

Student participation in school-sponsored extracurricular athletic activities is contingent upon the following:

1. The student must meet the academic criteria set forth in Board policy 6:190, *Extracurricular and Co-Curricular Activities*.¹
2. A parent/guardian of the student must provide written permission for the student's participation, giving the District full waiver of responsibility of the risks involved.²
3. The student must present a current certificate of physical fitness issued by a licensed physician, an advanced practice registered nurse, or a physician assistant. The ***Pre-Participation Physical Examination Form***, offered by the Illinois High School Association and the Illinois Elementary School Association, is the preferred certificate of physical fitness.³
4. The student must show proof of accident insurance coverage either by a policy purchased through the District-approved insurance plan or a parent/guardian written statement that the student is covered under a family insurance plan.⁴

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

A comprehensive Student Handbook can provide notice to parents and students of the school's conduct rules, extracurricular and athletic participation requirements, and other important information. The building principal usually develops the Handbook, subject to review and approval by the superintendent and board.

Each board in a district that maintains any of grades 9 through 12 must have a *no pass-no play* policy. 105 ILCS 5/10-20.30. See sample policy 6:190, *Extracurricular and Co-Curricular Activities*, for complete details.

For purposes of clarity, the IASB uses a curricular-extracurricular dichotomy. All classes are included in the category *curricular* as well as what was formally known as *co-curricular*, e.g., band and choral performances that are a required part of the class. The category *extracurricular* includes all school-sponsored activities that are not a part of a student's educational program as reflected in the student's class schedule. Examples include football, cheerleading, French club, Key Club, and student government. Note that extracurricular activities may be curriculum-related or non-curriculum-related for purposes of determining access to school facilities under the federal Equal Access Act. See sample policy 7:330, *Student Use of Buildings - Equal Access*.

² At a minimum, schools should: (1) fully inform and warn students and their parents/guardians of risks inherent in a sport, (2) assist their understanding and appreciation of these risks, and (3) document the school's efforts. See sample exhibit 7:300-E1, *Agreement to Participate*. This form's provision concerning waiver of liability and hold harmless should be reviewed with the board attorney. The district may not be able to waive gross negligence or recklessness on its part, but the waiver language in the form serves to alert the student and his/her parents/guardians to the seriousness of potential injuries.

³ Students participating in interscholastic athletics must have an annual physical exam. 23 Ill.Admin.Code §1.530(b)(2). Ill. High School Association (IHSA) by-law 2.150 requires schools to have on file for each student participating in interscholastic athletics a certificate of physical fitness issued by a licensed physician, physician assistant, or nurse practitioner not more than 395 days preceding any date of participation; a form is available on the IHSA website at: ihsa.org/Resources/DownloadCenter.aspx.

⁴ This item ensures that students are covered by insurance for medical expenses up to \$50,000 (before the district's catastrophic accident insurance kicks in) and that students who are not covered by the district's catastrophic insurance are otherwise covered by insurance.

5. The student must agree to follow all conduct rules and the coaches' instructions.
6. The student and his or her parents/guardians must provide written consent to random drug and alcohol testing pursuant to the Extracurricular Drug and Alcohol Testing Program.⁵
7. The student and his or her parents/guardians must: (a) comply with the eligibility rules of, and complete any forms required by, any sponsoring association (such as, the Illinois Elementary School Association, the Illinois High School Association, or the Southern Illinois Junior High School Athletic Association),⁶ and (b) complete all forms required by the District including, without limitation, signing an acknowledgment of receiving information about the Board's concussion policy 7:305, *Student Athlete Concussions and Head Injuries*.⁷

The Superintendent or designee (1) is authorized to impose additional requirements for a student to participate in extracurricular athletics, provided the requirement(s) comply with Board policy 7:10, *Equal Educational Opportunities*, and (2) shall maintain the necessary records to ensure student compliance with this policy.

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

105 ILCS 5/22-15 requires (with limited exceptions) each school district having grades 9-12 to maintain catastrophic insurance coverage for student athletes who sustain an accidental injury while participating in interscholastic athletic events sanctioned by IHSA that results in medical expenses in excess of \$50,000. A district maintaining grades K-8 may, but is not required to, provide accident and/or health insurance on a group or individual basis for students injured while participating in any school-sponsored athletic activity. For more information see sample policy 4:100, *Insurance Management*.

⁵ Optional; delete if the district does not have such a program. Be sure this provision is consistent with policy 7:240, *Conduct Code for Participants in Extracurricular Activities*, and administrative procedure 7:240-AP2, *Extracurricular Drug and Alcohol Testing Program*. The Seventh Circuit upheld the constitutionality of a high school's random drug testing program for students involved in extracurricular activities in *Todd v. Rush County Schs.*, 133 F.3d 984 (7th Cir. 1998).

⁶ Participants in an IHSA-sponsored or sanctioned athletic event are subject to testing for banned substances. For a list of banned substances, the testing program, and other related resources, see the IHSA Sports Medicine website, www.ihsa.org/Resources/SportsMedicine/PerformanceEnhancingDrugsSteroidEducation.aspx.

The sponsoring organization's rules/bylaws/policies control transgender student participation in extracurricular athletic activities. See:

1. IESA Policy and School Recommendations for Transgender Participation at: www.iesa.org/documents/handbook/IESA-Policies.pdf;
2. IHSA policy #34, *Policy and School Recommendations for Transgender Participation*, at: www.ihsa.org/About-the-IHSA/Constitution-By-laws-Policies; and
3. SIJHSAA Transgender Participation Policy at: [www.sijhsaa.com/images/stories/pdf/TRANSGENDER PARICIPATION_POLICY_Revised_10-17-18.pdf](http://www.sijhsaa.com/images/stories/pdf/TRANSGENDER_PARICIPATION_POLICY_Revised_10-17-18.pdf).

For further information on accommodating transgender students, see sample administrative procedure 7:10-API, *Accommodating Transgender, Nonbinary, or Gender Nonconforming Students*. See also two Ill. State Board of Education non-regulatory guidance documents entitled *Supporting Transgender, Nonbinary and Gender Nonconforming Students* and *Sample District Policy and Administrative Procedures*, at: www.isbe.net/supportallstudents. Federal administrations have taken varying positions on whether transgender students can compete consistent with their gender identity; consult the board attorney for guidance on this evolving area of law.

⁷ IHSA eligibility information and required forms are available at: www.ihsa.org/Resources/Download-Center.

A district must include information concerning the board's concussion policy in any agreement, contract, code, or other written instrument that the district requires a student athlete and his or her parent(s) or guardian(s) to sign before participating in practice or interscholastic competition. 23 Ill.Admin.Code §1.530(b)(1). Sample exhibit 7:300-E1, *Agreement to Participate*, contains the requirements in this policy. In addition, the student and student's parent/guardian must sign a form approved by IHSA acknowledging receiving and reading written information on concussions. 105 ILCS 5/22-80(e).

The IHSA website contains many helpful resources, e.g.:

1. www.ihsa.org/Resources/Download-Center (see consent form under subhead Sports Medicine Forms)
2. www.ihsa.org/Resources/SportsMedicine/PerformanceEnhancingDrugsSteroidEducation/IHSAPerformanceEnhancingSubstancePolicy.aspx (performance-enhancing drugs)
3. www.ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx (concussions)

Concussion information is available from the Ill. Elementary School Assoc. at: www.iesa.org/activities/concussion.asp.

LEGAL REF.: 105 ILCS 5/10-20.30, 5/22-80, and 25/2.
23 Ill.Admin.Code §1.530(b).

CROSS REF.: 4:100 (Insurance Management), 4:170 (Safety), 6:190 (Extracurricular and Co-Curricular Activities), 7:10 (Equal Educational Opportunities), 7:20 (Harassment of Students Prohibited), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:305 (Student Athlete Concussions and Head Injuries), 7:340 (Student Records)

Students

Student Fundraising Activities ¹

No individual or organization is allowed to ask students to participate in fundraising activities while the students are on school grounds during school hours or during any school activity. Exceptions are:

1. School-sponsored student organizations; and
2. Parent organizations and booster clubs that are recognized pursuant to Board policy 8:90, *Parent Organizations and Booster Clubs*.

The Superintendent or designee shall manage student fundraising activities in alignment with the following directives: ²

1. Fundraising efforts shall not conflict with instructional activities or programs.
2. For any school that participates in the School Breakfast Program or the National School Lunch Program, fundraising activities involving the sale of food and beverage items to students during the school day while on the school campus must comply with the Ill. State Board of Education rules concerning the sale of competitive food and beverage items. ³
3. Participation in fundraising efforts must be voluntary.
4. Student safety must be paramount. ⁴
5. For school-sponsored student organizations, a school staff member must supervise the fundraising activities and the student activity funds treasurer must safeguard the financial accounts.
6. The fundraising efforts must be to support the organization's purposes and/or activities, the general welfare, a charitable cause, or the educational experiences of students generally.
7. The funds shall be used to the maximum extent possible for the designated purpose.

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 this subject matter be covered by policy. 105 ILCS 5/10-20.19(3) requires districts to have rules governing: (1) "conditions under which school classes, clubs, and associations may collect or acquire funds," and (2) "the safekeeping of such funds for the educational, recreational, or cultural purposes they are designed to serve."

² Except for #2 (see f/n 3, below), all numbered directives are optional and may be deleted or amended. These directives are intended to comply with 105 ILCS 5/10-20.19(3) by stating the conditions under which funds may be collected and by providing for their safekeeping.

³ Selling popular food items to raise funds is restricted by federal and State rules. The Ill. State Board of Education limits the sale of competitive food and beverages sold to students on the school campus of any school that participates in the School Breakfast Program or the National School Lunch Program (*participating schools*). 23 Ill.Admin.Code §305.15(a). *Competitive foods* are all food and beverages that are offered by any person, organization, or entity for sale to students on the school campus during the school day that are not reimbursed under programs authorized by federal law. 7 C.F.R. §210.11(a)(2); 23 Ill.Admin.Code §305.5. *Participating schools* with grades 8 and below have zero *exempted fundraising days*, and *participating schools* with grades 9-12 may have no more than nine *exempted fundraising days*. 23 Ill.Admin.Code §305.15 (b)(2)(A)-(B). *Exempted fundraising day* means a school day on which foods and/or beverages not meeting the "general nutrition standards for competitive foods" may be sold to students on the school campus. 7 C.F.R. §210.11(b)(4); 23 Ill.Admin.Code §305.5. See sample policy 4:120, *Food Services*, and sample administrative procedure 4:120-AP, *Food Services; Competitive Foods; Exemptions*.

⁴ Two alternatives follow:

- | | |
|----------------|---|
| Alternative 1: | 4. Student safety must be paramount <u>and door-to-door solicitations are prohibited</u> . |
| Alternative 2: | 4. Student safety must be paramount <u>and door-to-door solicitations are discouraged</u> . |

8. Any fundraising efforts that solicit donor messages for incorporation into school property, e.g., tiles or bricks, or placement upon school property, e.g., posters or placards, must:⁵
 - a. Develop viewpoint neutral guidelines for the creation of messages;
 - b. Inform potential donors that all messages are subject to review and approval, and that messages that do not meet the established guidelines must be resubmitted or the donation will be returned; and
 - c. Place a disclaimer on all fundraising information and near the completed donor messages that all messages are “solely the expression of the individual donors and not an endorsement by the District of any message’s content.”

LEGAL REF.: 105 ILCS 5/10-20.19(3).
23 Ill.Admin.Code Part 305, School Food Service.

CROSS REF.: 4:90 (Student Activity and Fiduciary Funds), 4:120 (Food Services), 8:80 (Gifts to the District), 8:90 (Parent Organizations and Booster Clubs)

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

⁵ The issue of soliciting or receiving donor messages is an unsettled area of the law that is frequently litigated because of its many complex legal and practical issues. The U.S. Constitution’s Free Speech, Establishment, and Equal Protection Clauses may be triggered. As a general rule, school officials can avoid constitutional issues by reviewing donor messages according to uniform rules that do not discriminate on the basis of viewpoint. Requiring that donor messages go through a thorough review process prior to their permanent placement on any medium can avoid issues that may occur when messages are reviewed after placement and found to be unacceptable. For sample cases discussing the issue of a district’s exclusion of donor messages on school property, see Fleming v. Jefferson Cnty. Sch. Dist. R-1, 298 F.3d 918 (10th Cir. 2002), *cert. denied* (school’s restriction on the use of religious symbols on tiles that would become a part of the rebuilt school allowed because the messages were school-sponsored speech, and the restrictions had a reasonable relation to legitimate teaching concerns); DiLoreto v. Downey Unified Sch. Dist. Bd. of Educ., 196 F.3d 958 (9th Cir. 1999), *cert. denied* (school district’s refusal to post an advertisement featuring the text of the Ten Commandments on its baseball field upheld because the field was a nonpublic forum for a limited purpose); Gernetzke v. Kenosha Unified Sch. Dist. No. 1, 274 F.3d 464 (7th Cir. 2001), *cert. denied* (school district disallowed religious symbols on Bible Club’s mural so it would not have to allow speech that would cause a disruption like white supremacists who wanted to display the swastika); and Kiesinger v. Mexico Acad. and Central Sch., 427 F.Supp. 2d 182 (N.D.N.Y. 2006)(school district’s removal of bricks inscribed with a donor’s religious messages from a walkway in front of a school was viewpoint discrimination because the district allowed messages about God generally, but not a specific religious viewpoint on God).

Community Relations

Gifts to the District ¹

The School Board appreciates gifts from any education foundation, ² other entities, or individuals. All gifts must adhere to each of the following:

1. Be accepted by the Board or, if less than \$500.00 in value, the Superintendent or designee.³ Individuals should obtain a pre-acceptance commitment before identifying the District, any school, or school program or activity as a beneficiary in any fundraising attempt, including without limitation, any Internet fundraising attempt. ⁴
2. Be given without a stated purpose or with a purpose deemed by the party with authority to accept the gift to be compatible with the Board's educational objectives and policies.
3. Be consistent with the District's mandate to provide equal educational and extracurricular opportunities to all students in the District as provided in Board policy 7:10, *Equal Educational Opportunities*. State and federal laws require the District to provide equal treatment for members of both sexes to educational programming, extracurricular activities, and athletics. This includes the distribution of athletic benefits and opportunities. ⁵
4. Permit the District to maintain resource equity among its learning centers. ⁶
5. Be viewpoint neutral when the gift involves the incorporation of any messages. The Superintendent or designee shall manage a process for the review and approval of donations involving the incorporation of messages into or placing messages upon school property. ⁷

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

¹ State and federal law control this policy's content. 105 ILCS 5/16-1 grants authority to school boards to accept and manage gifts. Specifying the criteria for gifts in the board policy provides important information to potential donors and promotes a common understanding, uniform treatment, and adherence to legal requirements. Any gift to a school district or attendance center becomes district property to be "held, managed, improved, invested or disposed of by such board in such manner as the board, in its discretion, sees fit..." *Id.* When a donor expresses an intention that a gift be used for a certain purpose, the board must "promote and carry into effect" that intention until the "board determines in its discretion that it is no longer possible, practical or prudent to do so." *Id.*

² An education foundation can be an effective tool for collecting and donating financial and non-financial resources to a school district. An education foundation is a separate entity from the school district. In order to be exempt from federal income taxes and allow donors to deduct their donations, it must be organized as a tax-exempt organization, such as, under Section 501(c)(3) of the Internal Revenue Code.

³ The board may remove or amend the value of a gift that the superintendent or designee is permitted to accept.

⁴ Well-intentioned people can raise funds in a variety of ways, e.g., putting donation jars in retail establishments, 50/50 drawings, and websites designed for fundraising like *GoFundMe*. Addressing fundraising by individuals in policy allows the board to manage donations and minimize liability in a manner consistent with its policies and legal requirements. Before accepting a gift, a board (or superintendent, if applicable) should evaluate costs that may be associated with acceptance of a gift, such as installation costs.

⁵ 20 U.S.C. §1681 *et seq.*, Title IX of the Education Amendments, implemented by 34 C.F.R. Part 106; 23 Ill.Admin.Code §200.40. See www.ed.gov/laws-and-policy/civil-rights-laws/title-ix-and-sex-discrimination.

⁶ See sample policy 6:210, *Instructional Materials*.

6. Comply with all laws applicable to the District including, without limitation, the Americans with Disabilities Act, the Prevailing Wage Act, the Health/Life Safety Code for Public Schools, and all applicable procurement and bidding requirements.

The District will provide equal treatment to all individuals and entities seeking to donate money or a gift. Upon acceptance, all gifts become the District's property. The acceptance of a gift is not an endorsement by the Board, District, or school of any product, service, activity, or program. The method of recognition is determined by the party accepting the gift. ⁸

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Education Amendments; 34 C.F.R. Part 106.
105 ILCS 5/16-1.
23 Ill.Admin.Code §200.40.

CROSS REF.: 4:60 (Purchases and Contracts), 4:150 (Facility Management and Building Programs), 6:10 (Educational Philosophy and Objectives), 6:210 (Instructional Materials), 7:10 (Equal Educational Opportunities)

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

⁷ The U.S. Constitution's Free Speech, Establishment, and Equal Protection Clauses may be triggered when a donation comes with a message, e.g., art that incorporates political or religious messages. Contact the board attorney for assistance. Soliciting or receiving donor messages raises many complex legal and practical issues. As a general rule, school officials can avoid constitutional issues by reviewing donor messages according to uniform rules that do not discriminate against groups or individuals on the basis of their viewpoints. For more detailed explanations of viewpoint-neutrality and forum issues, see f/n 1 in sample policy 8:20, *Community Use of School Facilities*, and f/n 1 in sample policy 8:25, *Advertising and Distributing Materials in Schools Provided by Non-School Related Entities*.

A publicized procedure for reviewing donor messages according to pre-established viewpoint-neutral guidelines may limit misunderstandings or disputes with donors or other members of the public. Each board may want to discuss with the superintendent what expectations exist based upon the scope and scale of the donor message project, so that the superintendent can manage the expectations in the procedure. Consult the board attorney to assist with this process. Lastly, posting disclaimers informing members of the public that the donor messages incorporated into school property or placed upon school property are the personal expressions of individual donors and not the district's may avoid Establishment Clause arguments. For a more detailed discussion of the issues pertaining to excluding donor messages on school property and implementing procedures to review donor messages, see f/n 5 in sample policy 7:325, *Student Fundraising Activities*.

⁸ Examples of ways to recognize a gift include a letter of appreciation, mentioning the gift on the district or school website or publication, a shout-out at a public event, and a recognition plaque.

Community Relations

Public Suggestions and Concerns

The School Board is interested in receiving suggestions and concerns from members of the community. Any individual may make a suggestion or express a concern by contacting any District or School office. Community members who email the District or any District employee or board member are expected to abide by the standards in Board policy 6:235, *Access to Electronic Networks*, and should, to the extent possible, limit their communications to relevant individuals.¹ All suggestions and/or concerns will be referred to the appropriate level staff member or District administrator who is most able to respond in a timely manner. Each concern or suggestion shall be considered on its merit.

An individual who is not satisfied may file a grievance under Board policy 2:260, *Uniform Grievance Procedure*. The Board encourages, but does not require, individuals to follow the channels of authority prior to filing a grievance. Neither this policy nor the *Uniform Grievance Procedure* create an independent right to a hearing before the Board.

LEGAL REF.: 115 ILCS 5/14(c-5), Ill. Educational Labor Relations Act.

CROSS REF.: 2:140 (Communications To and From the Board), 2:230 (Public Participation at School Board Meetings and Petitions to the Board), 2:260 (Uniform Grievance Procedure), 3:30 (Chain of Command), 6:235 (Access to Electronic Networks), 6:260 (Complaints About Curriculum, Instructional Materials and Programs), 8:10 (Connection with the Community)

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

¹ The Ill. Educational Labor Relations Act requires employers to establish email policies in an effort to prohibit the use of its email system by outside sources. 115 ILCS 5/14(c-5). Sample policy 6:235, *Access to Electronic Networks*, states that the district's network, which includes its email system, is not a public forum for general use. Further, acceptable uses of the network by any party are limited to uses in support of education and/or research or for legitimate school business purposes. See sample policy 6:235, *Access to Electronic Networks*, at f/n 6 for additional discussion. Including this statement also discourages school community members from engaging in the disruptive practice of mass cc'ing district staff who have no involvement in a particular issue.