

Comment [KAS1]: The policy is not changed. Footnotes are updated to delete reference to past public acts and add reference to new public acts.

School Board

School District Elections ¹

School District elections are non-partisan, governed by the general election laws of the State, and include the election of School Board members, various public policy propositions, and advisory questions. ² Board members are elected at the consolidated election held on the first Tuesday in April in odd-numbered years. ³ If, however, that date conflicts with the celebration of Passover, the consolidated election is postponed to the first Tuesday following the last day of Passover. ⁴ The canvass of votes is conducted by the election authority within 21 days after the election. ⁵

The Board, by proper resolution, may cause to be placed on the ballot: (a) public policy referendum according to Article 28 of the Election Code, or (b) advisory questions of public policy according to Section 9-1.5 of the School Code. ⁶

The Board Secretary serves as the local election official. He or she receives petitions for the submission of a public question to referenda and forwards them to the proper election officer and otherwise provides information to the community concerning District elections. ⁷

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. Consult the board attorney early concerning any election question.

² 105 ILCS 5/9-10, ~~amended by P.A. 98-115~~, provides that nominating petitions are filed with the county clerk or the county board of election commissioners if one was created pursuant to 10 ILCS 5/6A-1. Objections to nominating petitions or to a petition for a public question are submitted to the county officers electoral board (10 ILCS 5/10-8 and 10-9, ~~amended by P.A. 98-115~~), ~~P.A. 98-115 amended~~ ~~†~~ The Election Code ~~also addresses regarding~~ reportable campaign contributions (10 ILCS 9-1.8); simultaneous filing of nominating petitions (10 ILCS 5/10-6.2); withdrawal from nomination (10 ILCS 5/10-7); Electoral Board duties (10 ILCS 5/10-10); and advertising in proximity of a polling place (10 ILCS 5/19A-70). See also 10 ILCS 5/1-3, ~~amended by P.A. 99-522, eff. 1-1-17~~, (definitions), 5/2A (time of holding elections), and 5/28 (submitting public questions). The school board secretary or clerk has no statutory duties regarding the election of members to the school board. He or she is well ~~advised~~ to refer all questions to the county clerk or the county board of election commissioners, whichever is applicable.

³ 10 ILCS 5/2A-1.1.

⁴ 10 ILCS 5/2A-1.1a.

⁵ The appropriate *election authority* (county clerk or election commission) canvasses the vote for school district elections (10 ILCS 5/1-8). The election authority must canvass the vote within 21 days after the election (10 ILCS 5/22-17 and 5/22-18). Within 28 days after the consolidated election, boards must hold an organizational meeting to elect officers and fix a time and place for regular meetings (105 ILCS 5/10-16). See policy 2:210, *Organizational School Board Meeting*.

⁶ This policy addresses two types of public questions: (1) binding referendum governed by 10 ILCS 5/28, and (2) advisory questions of public policy governed by 105 ILCS 5/9-1.5. An advisory question must be authorized by majority vote of the board. A third type of public question – a voter-initiated petition – is not covered in the policy; the board does not have any duties regarding this type of petition. A voter-initiated petition must be filed with the school board secretary who, if the timelines are met, must certify the question to be placed on the ballot to the county clerk (10 ILCS 5/10-15, 5/28-2, and 5/28-5).

⁷ 10 ILCS 5/28-6 provides that any petition for the submission of a public question to referendum must be filed with the *local election official*. The board secretary or clerk is the *local election official* (105 ILCS 5/9-2 and 10 ILCS 5/1-3). ~~P.A. 98-115 reassigned many See f/n 2 as many of the~~ duties of the *local election official* ~~were reassigned after the 2014 changes to the law; see f/n 2.~~ ~~-The board may delete the following PR function: "and otherwise provides information to the community concerning District elections."~~

LEGAL REF.: 10 ILCS 5/1-3, 5/2A, 5/10-9, 5/22-17, 5/22-18, and 5/28.
105 ILCS 5/9 and 5/9-1.5.

CROSS REF.: 2:40 (Board Member Qualifications), 2:50 (Board Member Term of Office),
2:210 (Organizational School Board Meeting)

School Board

Board Member Development 1

The School Board desires that its individual members learn, understand, and practice effective governance principles. 2 The Board is responsible for Board member orientation and development. Board members have an equal opportunity to attend State and national meetings designed to familiarize members with public school issues, governance, and legislation.

The Board President and/or Superintendent shall provide all Board members with information regarding pertinent education materials, publications, and notices of training or development.

Mandatory Board Member Training 3

Each Board member is responsible for his or her own compliance with the mandatory training laws that are described below:

1. Each Board member ~~elected or appointed to fill a vacancy of at least one year's duration~~ must complete at least ~~4~~four hours of professional development leadership training in education and labor law, financial oversight and accountability, and fiduciary responsibilities within the first year of his or her first term. ~~4 This requirement is applicable to Board members who are elected after June 13, 2011 or who are appointed to fill a vacancy of at least one year's duration after that date.~~
2. Each Board member must complete training on the Open Meetings Act no later than 90 days after taking the oath of office for the first time. After completing the training, each Board member must file a copy of the certificate of completion with the Board. Training on the Open Meetings Act is only required once. 5
3. Each Board member must complete a training program on evaluations under the Performance Evaluation Reform Act (PERA) before participating in a vote on a tenured teacher's dismissal using the optional alternative evaluation dismissal process. This dismissal process is available after the District's PERA implementation date. 6

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1 State law governs the mandatory board member training provisions in this sample policy.

2 The IASB *Foundational Principles of Effective Governance* is available online at www.iasb.com.

3 A board may omit the description of mandatory training requirements by deleting "that are described below" and deleting the numbered list.

4 105 ILCS 5/10-16a, ~~added by P.A. 97-8.~~

5 5 ILCS 120/1.05(b) and (c), ~~amended by P.A. 97-504.~~ IASB is an authorized provider of this training.

6 105 ILCS 5/24-16.5, ~~added by P.A. 97-8.~~ This mandatory training requirement ~~was~~will be phased-in as districts ~~implemented phase in teacher~~ evaluations that incorporate student growth ~~as a significant factor~~, otherwise known as Performance Evaluation Reform Act (PERA) evaluations. The implementation timeline for PERA evaluations varies from district to district but ~~will be one of the following: (a) the date in an applicable grant agreement; (b) beginning Sept. 1, 2015 for those districts whose student performance ranks in the lowest 20% among all districts of their type; and (c) beginning Sept. 1, 2016 for all remaining districts must now implement PERA evaluations.~~ After the implementation of PERA evaluations, a district may use an optional alternative evaluative dismissal process using the PERA evaluation. Before voting on a dismissal based upon an optional alternative evaluative dismissal process, a board member must complete a training program on PERA evaluations. IASB is an authorized provider of this training. For more information about PERA, see *PERA Overview for School Board Members*, iasb.com/law/pera.cfm.

The Superintendent or designee shall maintain on the District website a log identifying the complete training and development activities of each Board member, including both mandatory and non-mandatory training. ⁷

Professional Development; Adverse Consequences of School Exclusion; Student Behavior ⁸

The Board President or Superintendent, or their designees, will make reasonable efforts to provide ongoing professional development to Board members about the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, and developmentally appropriate disciplinary methods that promote positive and healthy school climates, i.e., Senate Bill 100 training topics.

Comment [KAS3]: Added to inform board members that the School Code encourages them to be trained on these issues. Footnote details SB 100 course that will soon be available online.

Board Self-Evaluation

The Board will conduct periodic self-evaluations with the goal of continuous improvement. ⁹

New Board Member Orientation ¹⁰

The orientation process for newly elected or appointed Board members includes:

1. The Board President or Superintendent, or their designees, shall give each new Board member a copy of or online access to the Board Policy Manual, the Board's regular meeting minutes for the past year, and other helpful information including material describing the District and explaining the Board's roles and responsibilities.
2. The Board President or designee shall schedule one or more special Board meetings, or schedule time during regular meetings, for Board members to become acquainted and to review Board processes and procedures.
3. The Board President may request a veteran Board member to mentor a new member. ¹¹
4. All new members are encouraged to attend workshops for new members conducted by the Illinois Association of School Boards.

Candidates

The Superintendent or designee shall invite all current candidates for the office of Board member to attend: (1) Board meetings, except that this invitation shall not extend to any closed meetings, and (2) pre-election workshops for candidates.

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⁷ 105 ILCS 5/10-16a, ~~added by P.A. 97-8~~, requires each school district to post on its website, if any, the names of all board members who have completed the minimum of 4 hours of training described in #1. Recognizing that a board may want to highlight all training and development achievements, the sample policy extends this reporting requirement to all training and development activities. For a website reporting template, see 2:120-E2, *Website Listing of Development and Training Completed by Board Members*.

A board may choose to strictly follow the statute by using the following alternative: "The Superintendent or designee shall post on the District website the names of all Board members who have completed the professional development leadership training described in number 1, above."

⁸ Optional. 105 ILCS 5/10-22.6(c-5). Information about professional development opportunities is available through IASB's Online Learning Center (OLC). Inquire at: onlinelearning@iasb.com.

⁹ Boards are not required to conduct self-evaluations, but may hold a closed meeting with representatives of a State association authorized under Article 23 of the School Code for the purpose of discussing self-evaluation practices and procedures, or professional ethics (5 ILCS 120/2(B)(6)).

¹⁰ New board member orientation is a critical step in helping new board members become effective and in promoting a smooth functioning *new team*. The first paragraph should be customized to add references to the IASB policy services that the district receives (e.g., **PRESS**, **PRESS Online**, **School Board Policies Online**, and **PRESS Plus**).

¹¹ See 2:120-E1, *Guidelines for Serving as a Mentor to a New School Board Member*.

LEGAL REF.: 5 ILCS 120/1.05 and 120/2.
105 ILCS 5/10-16a and 5/24-16.5.

CROSS REF.: 2:80 (Board Member Oath and Conduct), 2:125 (Board Member [Compensation:](#)
Expenses), 2:200 (Types of School Board Meetings)

RENAMED & REWRITTEN

October 2016

2:125

Comment [KAS1]: The policy implements the Local Government Travel Expense Control Act, 50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17.

School Board

Board Member Compensation; Expenses ¹

Board Member Compensation Prohibited ²

School Board members provide volunteer service to the community and may not receive compensation for services, except that a Board member serving as the Board Secretary may be paid an amount up to the statutory limit if the Board so provides.

Comment [KAS2]: The intent of this introduction is to provide information to the community that board members are public servants, and they do not receive *perks* or *compensation*.

Roll Call Vote ³

All Board member expense requests for travel, meals, and/or lodging must be approved by roll call vote at an open meeting of the Board.

Frequently misunderstandings occur that board members receive compensation for their service like other public officials.

Regulation of School District Expenses ⁴

The Board regulates the reimbursement of all travel, meal, and lodging expenses in the District by resolution.⁵ No later than approval of the annual budget and when necessary,⁶ the Superintendent will

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¹ State law controls this policy's content (105 ILCS 5/10-9, 5/10-10 and 5/22-1 (no compensation allowed, conflicts of interest prohibited); 105 ILCS 5/10-22.32 (expense advancements); and the Local Government Travel Expense Control Act (ECA) 50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17 (regulation of travel expenses)). The deadline for implementation of this policy under the ECA is 7-1-17, but as a practical matter, see the third paragraph of f/n 3, below.

² The legal limit for board secretary compensation is \$500 (105 ILCS 5/10-14).

³ 50 ILCS 150/15, added by P.A. 99-604, eff. 1-1-17. 105 ILCS 5/10-7 also states, "[o]n all questions involving the expenditure of money, the yeas and nays shall be taken and entered on the records of the proceedings of the board," i.e., a *roll call vote*.

Although the School Code has always required a roll call vote on public expenditures, on and after 60 days after the effective date of the ECA, a roll call vote will also be required for any:

1. Officer or employee of the board that exceeds the *maximum allowable reimbursement amount* (MARA) set by the board in its resolution to regulate expenses, and
2. Board member (50 ILCS 150/15, added by P.A. 99-604, eff. 1-1-17).

A majority of school law firms agree that the "on or after 60 days" date discussed in the paragraph above is 3-2-17. Some school law firms will use the date 3-1-17. There is also a policy-component deadline "[o]n and after 180 days after the effective date of [the ECA]." That date is 6-30-17. Many school law firms opine that, as a practical matter, boards should complete both the MARA and policy requirements of the ECA by late Feb. 2017 and no later than 3-1-17. Consult the board attorney about these dates. See f/n 13, below for more discussion about amending or adopting another resolution when expenses exceed the MARA required by the ECA.

⁴ 50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17 requires boards to regulate the reimbursement of expenses by *resolution or ordinance*. Unlike like the powers granted by the Ill. General Assembly to municipalities to pass ordinances, school boards govern by rules referred to as *policies* (105 ILCS 5/10-20.5). Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board (105 ILCS 5/10-20). Therefore, to effectuate the intent of the ECA's requirement to *regulate* expenses with an ordinance or resolution and stay within the confines of the School Code and best practice (minimize liability while aligning with the IASB "Foundational Principles of Effective Governance"), the language in this subhead:

1. Retains with the board its duty to *regulate* expenses through policy with a reference to a resolution that will define and set the types of allowable expenses in the district through the adoption of board policies 2:125, *Board Member Compensation; Expenses* and 5:60, *Expenses* (105 ILCS 5/10-20)(see f/n 5, below);
2. Delegates to the superintendent the duty to recommend an appropriate MARA to the board for adoption in its resolution to regulate expenses (see f/n 7, below).

⁵ *Id.* For a sample resolution, see 2:125-E3, *Resolution to Regulate Expense Reimbursements*. Consult the board attorney about how often the board should adopt or revisit its resolution (see f/n 6 and 8, below). For discussion about setting an annual time of year to adopt the resolution, see f/n 6, below.

2:125

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recommend a maximum allowable reimbursement amount for expenses to be included in the resolution.⁷ The recommended amount should be based upon the District's budget and other financial considerations.⁸

Money shall not be advanced or reimbursed, or purchase orders issued for: (1) the expenses of any person except the Board member,⁹ (2) anyone's personal expenses,¹⁰ or (3) entertainment expenses.¹¹ Entertainment includes, but is not limited to, shows, amusements, theaters, circuses, sporting events, or any other place of public or private entertainment or amusement, unless the entertainment is ancillary to the purpose of the program or event.¹²

⁶ 50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17 allows boards to determine this timeline locally.

While the ECA does not require boards to adopt an *annual* resolution to regulate expenses, an annual review provides a way for the board to monitor this policy's implementation and its duties under the ECA and policy 2:240, *Board Policy Development*.

This sample policy uses "No later than approval of the annual budget" to align with 105 ILCS 5/17-1 (annual budget adoption within the first quarter of each fiscal year). The words *and when necessary* allow for flexibility in situations discussed in f/n 13, below (*emergency and/or an extraordinary circumstance*).

Consider consulting the board's auditors to assist with this decision. Other options for the timing of when boards should set the MARA include:

1. Deleting ~~No later than approval of the annual budget~~ and replacing it with "At the start of each fiscal year"
2. Deleting ~~No later than approval of the annual budget~~ and replacing it with "At the start of each school year"
3. Deleting ~~No later than approval of the annual budget~~ and replacing it with "At the start of each calendar year" or
4. Deleting "~~No later than approval of the annual budget~~" and replacing it with "When presenting the proposed budget".

⁷ For practical purposes, this duty is delegated to the superintendent because:

1. The School Code:
 - a. Allows the board to delegate duties to the superintendent (105 ILCS 5/10-16.7), and
 - b. Assigns to the superintendent the duty to make recommendations to the board concerning the budget (105 ILCS 5/10-21.4); and
2. The MARA should be based upon a district's financial resources and other considerations important to the local district.

⁸ The ECA does not define MARA or how to determine it (see the first sentence of f/n 6, above). The board and superintendent should have a conversation that addresses at minimum the following topics:

1. Should the superintendent use and refer to line items from the current budget?
2. Would the board set per diems or set a very large number for the board and/or all of the district employees – both have their advantages and disadvantages.
3. Should the board categorize MARA by activity?
4. Will it categorized by individual responsibilities to the district or job titles/classes?
5. Should there be an amount category for each type of travel: airfare, train, automobile, taxi, etc.?
6. Will there be a special category for recurring and/or required training opportunities for teachers and board members?

These choices will depend upon many factors, including the budget, perhaps an auditor's recommendation, the community's preferences, and advice from the board attorney.

Amend the language throughout this subhead and in the fourth WHEREAS paragraph in 2:125-E3, *Resolution to Regulate Expense Reimbursements* to reflect local preferences. Consider that inserting the actual MARA into the policy would likely require more formal continual policy updates as opposed to amending the resolution if a board needs to increase its MARA for any reason. For example, see the discussion in f/n 13, below.

⁹ 105 ILCS 5/10-22.32. The final paragraph of this law prohibits money for expenses from being advanced or reimbursed to any person other than a board member or employee of the district.

¹⁰ Optional. *Personal expenses* are not defined in 50 ILCS 150/25, added by P.A. 99-604, eff. 1-1-17 or 105 ILCS 5/10-22.32. Consult the board attorney about this term and delete it only at the direction of the board attorney. Excluding personal expenses from advancements, reimbursements, and purchase orders is a generally-accepted best practice. The practice also aligns well with the State's widely-accepted transparency movement. Reimbursing personal expenses is also a magnet for the media.

¹¹ 50 ILCS 150/25, added by P.A. 99-604, eff. 1-1-17.

¹² *Id.*

Exceeding the Maximum Allowable Reimbursement Amount(s)

All requests for expense advancements, reimbursements, and/or purchase orders that exceed the maximum allowable reimbursement amount set by the Board may only be approved by it when:

1. The Board's resolution to regulate expenses allows for such approval;
2. An emergency or other extraordinary circumstance exists; and
3. The request is approved by a roll call vote at an open Board meeting. ¹³

Advancements

The Board may advance to its members actual and necessary expenses to be incurred while attending:¹⁴

1. Meetings sponsored by the Illinois State Board of Education or by the Regional Superintendent of Schools;¹⁵
2. County or regional meetings and the annual meeting sponsored by any school board association complying with Article 23 of the School Code; and
3. Meetings sponsored by a national organization in the field of public school education.

Expense advancement requests must be submitted to the Superintendent or designee on the Board's standardized estimated expense approval form. After spending expense advancements, Board members must use the Board's standardized expense reimbursement form and submit to the Superintendent: (a) the itemized, signed advancement voucher that was issued, and (b) the amount of actual expenses by attaching receipts. A Board member must return to the District any portion of an expense advancement not used.¹⁶ If an expense advancement is not requested, expense reimbursements may be issued by the Board to its members for the activities listed in numbers one through three, above, along with registration fees or tuition for a course(s) that allowed compliance

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¹³ 50 ILCS 150/10 and 15, added by P.A. 99-604, eff. 1-1-17. A board may need to revisit its resolution to regulate expenses more often than annually if (a) an expense reimbursement amount exceeds the MARA set in the board's resolution, and (b) an *emergency* or *extraordinary circumstance* does not exist. Consult the board attorney in these circumstances to determine whether the board may need to revisit and amend its resolution to increase the MARA before approving it.

Emergency or *an extraordinary circumstance* is not defined by the ECA, but these terms are meant to allow boards flexibility when expenses exceed the MARA. Yet approving expense reimbursement requests that exceed the MARA as *emergencies* or *extraordinary circumstances* when the board or superintendent "did not plan well" or "an organization's conference fees went up more than expected this year after the board adopted its resolution," may open the board to public relations and other legal challenges. See Laukhuf v. Board of Education, 2003 WL 23936148 (Ill.Cir. 2003)(addressing what constitutes an *emergency* in the context of the Open Meetings Act, which similar to the ECA, also does not define the term, and holding an emergency meeting to cure a situation that a school board created itself is not an emergency within the confines of OMA).

While the ECA does not provide for specific legal penalties for the wrongful approval of expenses, it is not clear whether a court may find in circumstances of poor MARA planning, that an *emergency* or *extraordinary circumstance* under the ECA did not exist and grant relief requested by a challenger as allowed under State law.

¹⁴ 105 ILCS 5/10-22.32 authorizes advancements for the listed items. This advancement language pre-dates the ECA and is narrower than the ECA. A reasonable interpretation is that the MARA required in the ECA would apply to any advancement amount. This policy seeks to reconcile and highlight the differences between the School Code and the ECA requirements by separating School Code advancements into a separate subhead from ECA reimbursements (estimated and actual). For more distinctions between these laws and further discussion, see f/n 20, below.

¹⁵ Use this alternative for districts in suburban Cook County: replace "Regional Superintendent of Schools" with "appropriate Intermediate Service Center." The Ill. Gen. Assembly abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.

¹⁶ 105 ILCS 5/10-22.32 requires the return of excess advancements that are issued.

with the mandatory trainings described in policy 2:120, *Board Member Development* and other professional development opportunities that are encouraged by the School Code (see the **Reimbursements and Purchase Orders** subhead, below).¹⁷ Expense advancements and vouchers shall be presented to the Board in its regular bill process.

Reimbursements and Purchase Orders

Expense reimbursement is not guaranteed and, when possible, Board members should seek pre-approval of expenses¹⁸ by providing an estimation of expenses on the Board's standardized estimated expense approval form, except in situations when the expense is diminutive. When pre-approval is not sought, Board members must seek reimbursement on the Board's standardized expense reimbursement form. Expense reimbursements and purchase orders shall be presented to the Board in its regular bill process.

Credit and Procurement Cards ¹⁹

Credit and procurement cards shall not be issued to Board members.

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¹⁷ Boards have this power under 105 ILCS 5/10-20; this statute specifies that the grant of powers to school boards is not exclusive and that school boards may exercise other powers that are not inconsistent with duties. A board may expand this provision's scope by amending and adding to the sentence as follows:

"~~and~~ other professional development opportunities that are encouraged by the School Code, and other training provided by one of the entities described in the above list."

See also f/n 8 in policy 2:120, *Board Member Development* for an example of a board member professional development opportunity that is encouraged by the School Code.

¹⁸ Optional. Consult the board attorney to determine whether a pre-approval process is appropriate for the district. Neither 105 ILCS 5/10-22.32 (expense advancements) nor 50 ILCS 150/ (expense reimbursements and estimates) address expense *pre-approvals*. 50 ILCS 150/20 states: "an *estimate* if expenses have not been incurred ..." or "a *receipt* ... if the expenses have already been incurred," suggesting no pre-approval is necessary. However, pre-approval is a best practice, and a board member who incurs expenses without pre-approval may run the risk that his or her expenses will not be approved. On the other hand, submitting estimated expenses for approval begs a pre-approval process, and some attorneys may read the law to require pre-approval of expenses. The pre-approval process also provides school officials with better information for financial planning.

Consult the board attorney to determine whether a pre-approval process is appropriate for the district. If it is required, ensure that 2:125-E3, *Resolution to Regulate Expense Reimbursements* reflects the district's specific pre-approval requirements. For an example of a standardized *estimated* expense form that could be used as a form of pre-approval, see 2:125-E2, *Board Member Estimated Expense Approval Form*. The form provides three methods for board members to submit estimated expenses: providing estimated expenses (50 ILCS 150/), expense advancements for the specific activities (105 ILCS 5/10-22.32), or a purchase order.

¹⁹ Optional. Consult the board attorney about issuing credit and procurement cards to board members. See f/n 1 of policy 4:55, *Use of Credit and Procurement Cards*.

If in consultation with the board attorney credit and procurement cards will be issued to board members, delete "~~Credit and procurement cards shall not be issued to Board members~~" and insert "Credit and procurement card usage is governed by policy 4:55, *Use of Credit and Procurement Cards*."

Standardized Expense Form(s) Required ²⁰

All requests for expense advancement, reimbursement, and/or purchase orders in the District must be submitted on the appropriate itemized, signed standardized form(s). The form(s) must show the following information:

1. The amount of the estimated or actual expense, with attached receipts for actual incurred expenses.
2. The name and office of the Board member who is requesting the expense advancement or reimbursement. Receipts from group functions must include the names, offices, and job titles of all participants. ²¹
3. The date(s) of the official business on which the expense advancement or reimbursement will be or was expended.
4. The nature of the official business conducted when the expense advancement or reimbursement will be or was expended.

Types of Official Business for Expense Advancements, Reimbursements, and Purchase Orders

1. Registration. When possible, registration fees will be paid by the District in advance.
2. Travel. The least expensive method of travel will be used, providing that no hardship will be caused to the Board member. Board members will be reimbursed for:
 - a. Air travel at the coach or economy class commercial airline rate. First class or business class air travel will be reimbursed only if emergency circumstances warrant. The emergency circumstances must be explained on the expense form and Board approval of the additional expense is required. Copies of airline tickets must be attached to the expense form.
 - b. Rail or bus travel at actual cost. Rail or bus travel costs may not exceed the cost of coach airfare. Copies of tickets must be attached to the expense form to substantiate amounts.
 - c. Use of personal automobiles at the standard mileage rate approved by the Internal Revenue Service for income tax purposes. The reimbursement may not exceed the cost of coach airfare. Mileage for use of personal automobiles in trips to and from transportation terminals will also be reimbursed. Toll charges and parking costs will be reimbursed.
 - d. Automobile rental costs when the vehicle's use is warranted. The circumstances for such use must be explained on the expense form.
 - e. Taxis, airport limousines, or other local transportation costs.
3. Meals. Meals charged to the School District should represent mid-fare selections for the hotel/meeting facility or general area, consistent with the maximum allowable reimbursement

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²⁰ 50 ILCS 150/20, added by P.A. 99-604, eff. 1-1-17. The School Code uses the term *voucher* for expense advancements (105 ILCS 5/10-22.32). The **PRESS** materials on expenses marry the School Code's advancement voucher requirement into the ECA's requirement for a standardized estimated expense form. For an example, see 2:125-E2, *Board Member Estimated Expense Approval Form* and 5:60-E2, *Employee Estimated Expense Approval Form*. These forms provide three methods for board members or district employees to submit anticipated/estimated expenses:

1. Providing estimated expenses under 50 ILCS 150/.
2. Requesting expense advancements for the activities listed under 105 ILCS 5/10-22.32, or
3. Obtaining a purchase order (highly unlikely for anticipated board member expenses but possible).

²¹ *Id.* at (2) and (3).

amount set by the Board.²² Tips are included with meal charges. Expense forms must explain the meal charges incurred. Alcoholic beverages will not be reimbursed.

4. Lodging. Board members should request conference rate or mid-fare room accommodations. A single room rate will be reimbursed. Board members should pay personal expenses at checkout. If that is impossible, deductions for the charges should be made on the expense form.
5. Miscellaneous Expenses. Board members may seek reimbursement for other expenses incurred while attending a meeting sponsored by organizations described herein by fully describing the expenses on the expense form, attaching receipts.

LEGAL REF.: 105 ILCS 5/10-20 and 5/10-22.32.
Local Government Travel Expense Control Act, 50 ILCS 150/.

CROSS REF.: 2:100 (Board Member Conflict of Interest), 2:120 (Board Member Development), 2:240 (Board Policy Development), 4:50 (Payment Procedures), 4:55 (Use of Credit and Procurement Cards), 5:60 (Expenses)

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²² Alternatively, a board could set a daily limit on meal costs, such as:

Board members will be reimbursed for meal costs and tips up to \$_____ per day consistent with the maximum allowable reimbursement amount(s) set by the Board.

But see also f/n 8, above and ensure this amount is consistent with the MARA set by the board resolution.

From: Shawn Walsh [<mailto:swalsh@willcountyillinois.com>]
Sent: Tuesday, November 29, 2016 8:52 AM
To: willsupers@willroe.org
Subject: FW: Will County Travel Policy & PA 099-0604

Good Morning,

A group of superintendents met at the ROE yesterday with the purpose of establishing a consistent, county wide daily maximum reimbursement to be compliant with PA 099-0604. Attached is a sample resolution that has been developed to reflect the recommended maximum daily reimbursement of **\$800** for travel, meals, lodging, *and registration*. Even though registration is not a required category by the law, the group felt that it gave purpose for the travel, meals, and lodging.

Again, this is a recommendation. The final decision rests with your board of education.

Let me know if you have any questions.

Thanks,
Shawn

Dr. Shawn Walsh
Regional Superintendent
Will County ROE #56
702 W. Maple Street
New Lenox, IL 60451
815-740-8360
815-740-4788 fax
www.willroe.org

From: Shawn Walsh [<mailto:swalsh@willcountyillinois.com>]
Sent: Friday, November 18, 2016 9:53 AM
To: willsupers@willroe.org
Subject: FW: Will County Travel Policy & PA 099-0604

Good Morning,

As a follow up on the email below the ROE will be hosting a meeting at our New Lenox office on Monday, November 28, at 9:00am to discuss the possibility of setting a maximum allowable reimbursement for travel, meals and lodging expenses. Please reply if you plan to attend.

Thanks,
Shawn

Dr. Shawn Walsh
Regional Superintendent
Will County ROE #56
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815-740-4788 fax
www.willroe.org

From: Shawn Walsh
Sent: Thursday, November 10, 2016 11:01 AM
To: 'willsupers@willroe.org' <willsupers@willroe.org>
Subject: Will County Travel Policy & PA 099-0604

Good Morning,

At the IASA meeting last week, it was requested that I send Will County's travel policy. I had a discussion with the County Auditor's office regarding this policy and how it relates to the Local Government Travel Expense Control Act [PA 099-0604](#). The Auditor's Office informed me that this policy was not crafted as a result of the new law, rather it was meant to update the previous policy to conform with IRS regulations.

It was also requested that the school district's in Will County discuss the idea of having the same maximum allowable reimbursement for travel, meal, and lodging expenses. I would be happy to coordinate a meeting if that would be beneficial. All school districts must have a policy regulating travel, meal and lodging expenses by June 30, 2017.

Let me know if you have any questions.

Take care,

Shawn

Dr. Shawn Walsh
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Informational

DRAFT UPDATE – NEW

2:125-E3

School Board

Exhibit - Resolution to Regulate Expense Reimbursements

WHEREAS, Section 10-20 of the School Code (105 ILCS 5/10-20) grants school boards other powers that are not inconsistent with their duties;

WHEREAS, Section 10 of the Local Government Travel Expense Control Act (50 ILCS 150/, added by P.A. 99-604, eff. 1-1-17) provides that the School Board shall by resolution regulate the reimbursement of all travel, meal, **registration** and lodging expenses of officers and employees, including, but not limited to: (1) the types of official business for which travel, meal, and lodging expenses are allowed; (2) maximum allowable reimbursement for travel, meal, **registration** and lodging expenses; and (3) a standardized form for submission of travel, meal, and lodging expenses supported with minimum documentation;

WHEREAS, the Board regulates the types of expenses that are allowed in Board Policies 2:125, *Board Member Compensation; Expenses* and 5:60, *Expenses*;

WHEREAS, based upon the School District's budget and other financial considerations, the Superintendent has recommended to the Board a maximum allowable reimbursement amount of \$[amount] for Board members and District staff;

WHEREAS, the Board requires submission of appropriate standardized expense forms supported with required written minimum documentation (50 ILCS 150/10 and 20);

WHEREAS, submitted expenses that exceed the Board's maximum allowable reimbursement amount may be approved by a roll call vote at an open meeting of the Board when an emergency or other extraordinary circumstance exists (50 ILCS 150/10 and 15);

WHEREAS, all Board member expenses must be approved by a roll call vote at an open meeting of the Board (50 ILCS 150/15);

THEREFORE, BE IT RESOLVED, that the Board hereby:

1. Defines and sets the types of allowable expenses through Board policy 2:125, *Board Member Compensation; Expenses* and 5:60, *Expenses*.

2. Sets the maximum allowable reimbursement for travel, meal, **registration** and lodging expenses to an amount not to exceed **\$800.00 per day**, effective on [date] until the Resolution is rescinded or replaced by the Board.
3. Supersedes its previously adopted *Resolution to Regulate Expense Reimbursements* as of the effective date in paragraph two above.
4. Requires use of Board exhibits 2:125-E1, *Board Member Expense Reimbursement Form*; 2:125-E2, *Board Member Estimated Expense Approval Form*; 5:60-E1, *Employee Expense Reimbursement Form*; and 5:60-E2, *Employee Estimated Expense Approval Form*.
5. May approve expenses that exceed the Board's maximum allowable reimbursement amount by a roll call vote at an open meeting when an emergency or other extraordinary circumstance exists.
6. Must approve its members' expenses by a roll call vote at an open meeting.

Attested by: _____, Board President

Attested by: _____, Board Secretary

Comment [APowell1]:

A resolution is required by The Local Government Travel Expense Control Act, 50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17.

This sample resolution is not included on your PRESS Plus Response Form. After the Board has customized and approved a local Resolution to Regulate Expense Reimbursements, you may submit it through PRESS Plus for inclusion in the Board Policy Manual.

Issue 93, October 2016



School Board

Types of School Board Meetings ¹

General

For all meetings of the School Board and its committees, the Superintendent or designee shall satisfy all notice and posting requirements contained herein as well as in the Open Meetings Act. This shall include mailing meeting notifications to news media that have officially requested them and to others as approved by the Board.² Unless otherwise specified, all meetings are held in the District's main office.³ Board policy 2:220, *School Board Meeting Procedure*, governs meeting quorum requirements.

The Superintendent is designated on behalf of the Board and each Board committee to receive the training on compliance with the Open Meetings Act that is required by Section 1.05(a) of that Act. The Superintendent may identify other employees to receive the training.⁴ In addition, each Board member must complete a course of training on the Open Meetings Act as required by Section 1.05(b) or (c) of that Act. ⁵

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

¹ State law controls this policy's content. The provisions of the Open Meetings Act (OMA) do not apply to collective bargaining negotiations and grievance arbitrations as provided in 115 ILCS 5/18.

² 5 ILCS 120/2.02. These responsibilities may be given to anyone.

³ State law only requires that meetings be held in a location convenient and open to the public and no open meeting is allowed to be held on a legal holiday unless the regular meeting day falls on that holiday (5 ILCS 120/2.01). According to an Ill. Atty. Gen. Public Access Counselor Opinion, a board may not meet in a private residence because it would not be convenient and open to the public (PAO 12-8). A board meeting 26 miles away from its regular location, while open to the public, was inconvenient because "the public, as a practical matter, would be deterred from attending it" (PAO 13-14). Any person may record an open meeting (5 ILCS 120/2.05). See policy 2:220, *School Board Meeting Procedure*.

⁴ Each board must designate at least one employee or member to receive training on compliance with OMA (5 ILCS 120/1.05). Revise this paragraph if the board designates other individual(s) to receive the training. A list of designated individual(s) must be submitted to the Attorney General's Public Access Counselor. The designated individual(s) must successfully complete an electronic training curriculum administered by the Attorney General's Public Access Counselor within 30 days after that designation, and thereafter must successfully complete an annual training program. The OMA does not specify duties for the designated individuals who receive the training but presumably they would assist the board in its OMA compliance efforts.

⁵ 5 ILCS 120/1.05(b) applies to training administered by the Attorney General's office; 1.05(c) applies to training administered by IASB. Board members elected or appointed after 1-1-~~20~~12 must complete the training not later than 90 days after taking the oath of office. Even before this law, compliance with the OMA has always been considered a shared responsibility of board members. Failing to complete the OMA training does not affect the validity of an action taken by the board nor is it considered a criminal violation (5 ILCS 120/1.05(b)) and 120/4. However, a person found to have violated any other provisions of the OMA is guilty of a Class C misdemeanor punishable by a \$1500 fine or 30 days in jail (5 ILCS 120/4).

Regular Meetings

The Board announces the time and place for its regular meetings at the beginning of each fiscal year.⁶ The Superintendent shall prepare and make available the calendar of regular Board meetings. The regular meeting calendar may be changed with ~~10-ten~~ days' notice in accordance with State law. ⁷

A meeting agenda shall be posted at the District's main office and the Board's meeting room, or other location where the meeting is to be held, at least 48 hours before the meeting. ⁸

Closed Meetings ⁹

The Board and Board committees may meet in a closed meeting to consider the following subjects:

1. The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee of the public body or against legal counsel for the public body to determine its validity. ¹⁰ However, a meeting to consider an increase in compensation to a specific employee of a public body that is subject to the Local Government Wage Increase Transparency Act may not be closed and shall be open to the public and posted and held in accordance with [the Open Meetings Act]. 5 ILCS 120/2(c)(1), amended by P.A. 99-646. ¹¹

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

⁶ The OMA and the School Code have different provisions regarding the establishment of a regular meeting schedule. The OMA requires each public body to prepare and make available a regular meeting schedule at the beginning of each calendar or fiscal year (5 ILCS 120/2.03). The School Code states that this task is accomplished during the organizational meeting. By *announcing* the schedule at the beginning of each calendar or fiscal year and by *fixing* the schedule at the organizational meeting, a board can implement both laws. Note that the phrase in this sample policy, "at the beginning of each fiscal year," can be changed to "at the beginning of each calendar year."

⁷ Regular meeting dates may be changed by giving at least 10 days' notice in a newspaper of general circulation and posting a notice at the district's main office (5 ILCS 120/2.03). Districts with a population of less than 500, in which no newspaper is published, may give the ~~10-ten~~ days' notice by posting a notice in at least ~~3-three~~ prominent places within the district, in addition to posting a notice at the district's main office (Id.). Notice shall also be given to those news media having filed an annual request to receive notifications (Id.).

⁸ 5 ILCS 120/2.02(a). The posting location may need modification to comply with the law's requirement that the agenda be posted at the district's main office. For agenda requirements, see policy 2:220, *School Board Meeting Procedure*.

OMA also requires that "any ~~requested~~ notice and agenda for the meeting be *continuously available* for public ~~review/viewing~~ during the entire 48-hour period preceding the meeting." Emphasis added, 5 ILCS 120/2.02(c). The requirement for *continuously available* is satisfied if the district posts any required notice and agenda on its website. However, to comply with the legislative intent, posting on the district website does not replace the posting described in this sentence. See Rep. Pihos remarks reported in *New open-meetings law; is hard-copy posting of agendas still required?*, Sept. 2012, Illinois Bar Journal.

For districts that do not post board meeting agendas on a website (because they do not have a website maintained by a fulltime staff member), add the following sentence:

The agenda shall be continuously available for public review during the entire 48-hour period preceding the meeting.

If a notice or agenda is not continuously available for the full 48-hour period due to actions outside of the district's control, the lack of availability does not invalidate any meeting or action taken.

⁹ The reasons for closed meetings are frequently addressed in court decisions and Attorney General opinions; only a few of these decisions/opinions are mentioned in the footnotes.

¹⁰ "Th[is] exception is not intended to allow private discussion of fiscal matters, notwithstanding that they may directly or indirectly impact the employees of the public body." See PAOs 12-11 and 15-03, Discussing the elimination of an employee's position for reasons unrelated to the performance of the employee is not within the scope of Section 2(c)(1). See PAO 15-07. Nor does the exception permit a public body to hold closed sessions to discuss employees in general or issues that may ultimately have an impact on employees. See PAO 15-05.

¹¹ The Local Government Wage Increase Transparency Act, 50 ILCS 155/1, added by P.A. 99-646, allows *disclosable payments* (described below) to IMRF employees only when the school board has first discussed the specific payment to be made at a meeting open to the public and posted and held in accordance with the requirements of the Open Meetings Act.

2. Collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees. 5 ILCS 120/2(c)(2). [12](#)
3. The selection of a person to fill a public office, as defined in the Open Meetings Act, including a vacancy in a public office, when the public body is given power to appoint under law or ordinance, or the discipline, performance or removal of the occupant of a public office, when the public body is given power to remove the occupant under law or ordinance. 5 ILCS 120/2(c)(3).
4. Evidence or testimony presented in open hearing, or in closed hearing where specifically authorized by law, to a quasi-adjudicative body, as defined in the Open Meetings Act, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning. 5 ILCS 120/2(c)(4).
5. The purchase or lease of real property for the use of the public body, including meetings held for the purpose of discussing whether a particular parcel should be acquired. 5 ILCS 120/2(c)(5).
6. The setting of a price for sale or lease of property owned by the public body. 5 ILCS 120/2(c)(6).
7. The sale or purchase of securities, investments, or investment contracts. 5 ILCS 120/2(c)(7).
8. Security procedures, school building safety and security, and the use of personnel and equipment to respond to an actual, a threatened, or a reasonably potential danger to the safety of employees, students, staff, the public, or public property. 5 ILCS 120/2(c)(8), amended by P.A. 99-235, eff. 1-1-16.
9. Student disciplinary cases. 5 ILCS 120/2(c)(9).
10. The placement of individual students in special education programs and other matters relating to individual students. 5 ILCS 120/2(c)(10).
11. Litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal, or when the public body finds that an action is probable or imminent, in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting. 5 ILCS 120/2(c)(11).
12. The establishment of reserves or settlement of claims as provided in the Local Governmental and Governmental Employees Tort Immunity Act, if otherwise the disposition of a claim or potential claim might be prejudiced, or the review or discussion of claims, loss or risk

The provisions apply only to disclosable payments made to participating employees under Article Seven of the Illinois Pension Code (IMRF) who began participation before 1-1-11 and who are not subject to a collective bargaining agreement with respect to the employment upon which the participation is based.

Disclosable payments means a payment, whether in the form of an increase in the rate of earnings or a lump-sum payment, that would:

1. Be made by a participating employer to a participating employee after the employee has expressed to the employer his or her intent to retire or withdraw from service;
2. Have the effect of increasing the employee's reportable monthly earnings from that employer by more than 6% compared to the previous month; and
3. Be made between 12 months and 90 days prior to the employee's expected termination of service.

It does not include a refund of contributions or any payment required to be paid by State or federal law.

12 Discussing a hiring freeze is not within the scope of Section 2(c)(2). See PAO 15-07. And if a public body is not engaged in collective bargaining at the time of the meeting, discussion of a hiring freeze does not constitute a collective negotiating matter. Id.

management information, records, data, advice or communications from or with respect to any insurer of the public body or any intergovernmental risk management association or self insurance pool of which the public body is a member. 5 ILCS 120/2(c)(12).

13. Self evaluation, practices and procedures or professional ethics, when meeting with a representative of a statewide association of which the public body is a member. 5 ILCS 120/2(c)(16). **13**
14. Discussion of minutes of meetings lawfully closed under the Open Meetings Act, whether for purposes of approval by the body of the minutes or semi-annual review of the minutes as mandated by Section 2.06. 5 ILCS 120/2(c)(21).
15. Meetings between internal or external auditors and governmental audit committees, finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews conducted in accordance with generally accepted auditing standards of the United States of America. 5 ILCS 120/2(c)(29).

The Board may hold a closed meeting, or close a portion of a meeting, by a majority vote of a quorum, taken at an open meeting. The vote of each Board member present, and the reason for the closed meeting, will be publicly disclosed at the time of the meeting and clearly stated in the motion and the meeting minutes. **14**

A single motion calling for a series of closed meetings may be adopted when such meetings will involve the same particular matters and are scheduled to be held within ~~3~~three months of the vote. **15**
No final Board action will be taken at a closed meeting. **16**

Reconvened or Rescheduled Meetings

A meeting may be rescheduled or reconvened. Public notice of a rescheduled or reconvened meeting shall be given in the same manner as that for a special meeting, except that no public notice is required when the original meeting is open to the public and: (1) is to be reconvened within 24 hours, or (2) an announcement of the time and place of the reconvened meeting was made at the original meeting and there is no change in the agenda. **17**

Special Meetings

Special meetings may be called by the President or by any ~~3~~three members of the Board by giving notice thereof, in writing, stating the time, place, and purpose of the meeting to remaining Board

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

13 IASB field services directors are available to facilitate a board self-evaluation.

14 5 ILCS 120/2a. Provided the open meeting was properly noticed, no additional notice is required to close the meeting. A motion to close a meeting can be as simple as, "I move that the Board hold [go into] a closed session to discuss [state one of the closed meeting grounds with reference to the specific section authorizing the closed meeting]."

The adequacy of a motion to go into closed session was discussed in Henry v. Anderson and Champaign Community Unit School Dist. No. 4, 827 N.E.2d 522 (Ill.App.4, 2005). A statutory citation is not required in the motion to go into closed session, but the OMA does require a reference to the specific exception. The *litigation* exception is tricky. If the litigation has been filed and is pending, the motion to go into closed session need only state that the board will discuss litigation that has been filed and is pending. If the litigation has not been filed, the board must: (1) find that the litigation is probable or imminent, and (2) record and enter into the minutes the basis for that finding.

15 Id.

16 5 ILCS 120/2(e). See also PAOs 13-03, 13-07, and 14-01.

17 5 ILCS 120/2.02.

members by mail at least 48 hours before the meeting, or by personal service at least 24 hours before the meeting. 18

Public notice of a special meeting is given by posting a notice at the District's main office at least 48 hours before the meeting and by notifying the news media that have filed a written request for notice. A meeting agenda shall accompany the notice. 19

All matters discussed by the Board at any special meeting must be related to a subject on the meeting agenda. 20

Emergency Meetings

Public notice of emergency meetings shall be given as soon as practical, but in any event, before the meeting to news media that have filed a written request for notice. 21

Posting on the District Website 22

In addition to the other notices specified in this policy, the Superintendent or designee shall post the following on the District website: 1) the annual schedule of regular meetings, which shall remain posted until the Board approves a new schedule of regular meetings; (2) a public notice of all Board meetings; and (3) the agenda for each meeting which shall remain posted until the meeting is concluded.

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

18 105 ILCS 5/10-16 (~~two~~ members of a board of directors; 105 ILCS 5/10-6). Lawyers disagree whether ~~three~~ members may call a special meeting without violating the OMA, although there is general agreement that no violation occurs if ~~three~~ members call a special meeting while they are participating in a lawful board committee meeting with the matter on the agenda.

19 5 ILCS 120/2.02. News media that gave the board an address or telephone number within the district's territorial jurisdiction must be given notice in the same manner as given board members.

OMA requires that "any required notice and agenda be *continuously available* for public viewing during the entire 48-hour period preceding the meeting." Emphasis added, 5 ILCS 120/2.02(c). The requirement for *continuously available* is satisfied if the district posts any required notice and agenda on its website. Posting on the district website does not replace the posting described in this paragraph. See f/n 8.

For districts that do not post board meeting notices and agendas on a website (because they do not have a website maintained by a fulltime staff member), add the following sentence:

The notice and agenda shall be continuously available for public review during the entire 48-hour period preceding the meeting.

20 Lawyers disagree whether the Open Meetings Act mandates this restriction, i.e., whether it restricts board *discussions* to items related to an item on the special meeting agenda. The Act limits board *action* to items on the agenda (5 ILCS 120/2.02(c); it states that the validity of any action taken "which is germane to a subject on the agenda shall not be affected by other errors or omissions in the agenda," (5 ILCS 120/2.02(a)). For agenda requirements, see policy 2:220, *School Board Meeting Procedure*.

21 5 ILCS 120/2.02(a).

22 Required *only if* the district has a website that is maintained by a full-time staff member; if not, this section may be omitted (5 ILCS 120/2.02). Note that 5 ILCS 120/2.02(b) requires that a notice of *all* meetings be posted on the district website, but only notices of *regular* meetings must remain posted until the *regular* meeting is concluded. As this is an obvious oversight, it is wise to leave the notice of every meeting on the website until after the meeting occurred. The agenda must remain on the district website until the meeting is concluded (*Id.*).

LEGAL REF.: 5 ILCS 120/, Open Meeting Act.
5 ILCS 140/, Freedom of Information Act.
105 ILCS 5/10-6 and 5/10-16.

CROSS REF.: 2:110 (Qualifications Term, and Duties of Board Officers), 2:120 (Board Member Development), 2:210 (Organizational School Board Meetings), 2:220 (School Board Meeting Procedure), 2:230 (Public Participation at School Board Meetings and Petitions to the Board), 6:235 (Access to Electronic Networks)

School Board

School Board Meeting Procedure 1

Agenda

The School Board President is responsible for focusing the Board meeting agendas on appropriate content.² The Superintendent shall prepare agendas in consultation with the Board President. The President shall designate a portion of the agenda as a consent agenda for those items that usually do not require discussion or explanation before Board action. Upon the request of any Board member, an item will be withdrawn from the consent agenda and placed on the regular agenda for independent consideration.³

Each Board meeting agenda shall contain the general subject matter of any item that will be the subject of final action at the meeting.⁴ Items submitted by Board members to the Superintendent or the President shall be placed on the agenda for an upcoming meeting.⁵ District residents may suggest inclusions for the agenda.⁶ The Board will take final action only on items contained in the posted agenda; items not on the agenda may still be discussed.⁷

The Superintendent shall provide a copy of the agenda, with adequate data and background information, to each Board member at least 48 hours before each meeting, except a meeting held in the event of an emergency.⁸ The meeting agenda shall be posted in accordance with Board policy 2:200, *Types of School Board Meetings*.

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 boards to have a policy concerning: (1) the public's right to record meetings (5 ILCS 120/2.05), and (2) if applicable, attendance by video or audio means (5 ILCS 120/7). Boards are not mandated to have a policy on the remaining topics covered in this policy. The following items are matters of local discretion: agenda preparation and contents, process for board members to have items placed on agenda, receipt and handling of residents' requests for agenda inclusions, and order of business.

² Appropriate agenda content includes: establishing board processes, clarifying the district's purpose, delegating authority, defining operating limits, monitoring district progress, and taking legally required board action. See *IASB Foundational Principles of Effective Governance*.

³ To comply with the Open Meetings Act's mandate that minutes contain a "summary of discussion on all matters proposed, deliberated, or decided," a board should include a list of consent items in the agenda.

⁴ 5 ILCS 120/2.02(c) ~~amended by P.A. 97-827 (eff. 1-1-2013)~~. The Ill. Appellate Court held that the Open Meetings Act prohibits a board from voting on a matter at a regular meeting that is not on the pre-meeting published agenda (Rice v. Board of Trustees of Adams County, 762 N.E.2d 1205 (Ill.App.4, 2002)).

⁵ An alternative follows:

Any Board member may submit suggested agenda items to the Board President for his or her consideration.

⁶ See policy 2:230, *Public Participation at School Board Meetings and Petitions to the Board*. In districts governed by a board of school directors, an appointed board official must give a person requesting consideration of a matter by the board a formal written response no later than 60 days after receiving the request. The response must establish a meeting before the board or list the reasons for denying the request (105 ILCS 5/10-6).

Options follow to restrict the addition of new agenda items; the phrases between [] may be used together, separately, or eliminated.

Discussion items may be added to the agenda [at the beginning of a regular meeting] [upon unanimous approval of those Board members present].

⁷ An opinion from the Ill. Public Access Counselor found no violation of the OMA when a board removed an item from the agenda within the 48-hour notice time period (PAO 14-3). Removals inform the public that the board does not plan to proceed on the topic.

⁸ State law does not require this, except that 105 ILCS 5/10-16 requires members to receive a written notice of a special meeting that includes the meeting's purpose.

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

Voting Method

Unless otherwise provided by law, when a vote is taken upon any measure before the Board, with a quorum being present, a majority of the votes cast shall determine its outcome. ⁹ A vote of *abstain* or *present*, or a vote other than *yea* or *nay*, or a failure to vote, is counted for the purposes of determining whether a quorum is present. A vote of *abstain* or *present*, or a vote other than *yea* or *nay*, or a failure to vote, however, is not counted in determining whether a measure has been passed by the Board, unless otherwise stated in law. The sequence for casting votes is rotated. ¹⁰

Comment [KAS2]: Law originated through IASB resolutions.

On all questions involving the expenditure of money and on all questions involving the closing of a meeting to the public, a roll call vote shall be taken and entered in the Board's minutes. An individual Board member may request that a roll call vote be taken on any other matter; the President or other

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

⁹ In most situations, the failure of a member to vote has the effect of acquiescence or concurrence with the majority of votes cast. Prosser v. Village of Fox Lake, 438 N.E.2d 134 (Ill., 1982); People v. Bertrand, 2012 IL App (1st) 111419 (9-28-2012) 978 N.E.2d 681 (Ill.App.1, 2012). For example, a motion passes with a vote of ~~2-two~~ yeas, ~~1-one~~ nay, and ~~4-four~~ abstentions. A motion fails with a vote of ~~2-two~~ yeas, ~~3-three~~ nays, and ~~2-two~~ abstentions. A motion fails with a vote of ~~3-three~~ yeas, ~~3-three~~ nays, and one *abstain* because there is no majority. Exceptions include when a statute requires the *affirmative vote* of a majority or extra. Statutory exceptions include the following board actions:

1. Dismissing a teacher for any reason other than reduction of staff or elimination of that position requires approval by the majority of all members (105 ILCS 5/24-12).
2. Directing the sale of district real property or buildings thereon must be approved by at least 2/3 of the board members (105 ILCS 5/5-22, amended by P.A. 99-794, eff. 1-1-17, unless the sale is residential property constructed or renovated by students as part of a curricular program, in which case, the board could engage the services of a licensed real estate broker to sell the property for a commission not to exceed 7%, contingent upon the public listing of the property on a multiple listing service for a minimum of 14 calendar days and a sale of the property happens within 120 days.
3. Making or renewing a lease of school property to another school district or municipality or body politic and incorporate for a term longer than ~~40-ten~~ years, or to alter the terms of such a lease whose unexpired term exceeds 10 years, requires approval by at least 2/3 of the board's full membership (105 ILCS 5/10-22.11).
4. Leasing any building, rooms, grounds, and appurtenances to be used by the district for school or administration purposes for a term longer than ~~40-ten~~ years, or to alter the terms of such a lease whose unexpired term exceeds ~~40-ten~~ years, requires approval by at least 2/3 of the board's full membership (105 ILCS 5/10-22.12).
5. Obtaining personal property by lease or installment contract requires approval by an affirmative vote of at least 2/3 of the board members. *Personal property* includes computer hardware and software and all equipment, fixtures, and improvements to existing district facilities to accommodate computers (105 ILCS 5/10-22.25a).
6. Adopting a supplemental budget after a successful referendum requires approval by a majority of the full board (105 ILCS 5/17-3.2).
7. Petitioning the circuit court for an emergency election requires approval by a majority of the members (10 ILCS 5/2A-1.4).
8. Expending funds in emergency situation in the absence of required bidding requires approval by at least 3/4 of the board (105 ILCS 5/10-20.21).
9. Exchanging school building sites requires approval by at least a 2/3 majority of the board (105 ILCS 5/5-23).
10. Waiving the administrative cost cap requires approval by an affirmative vote of at least 2/3 of the board (105 ILCS 5/17-1.5).
11. Authorizing an advisory question of public policy to be placed on the ballot at the next regularly scheduled election requires approval by a majority of the board (105 ILCS 5/9-1.5).

¹⁰ Voting sequence is at the board's discretion. A board may indicate how frequently it changes the voting sequence by adding *after each vote*, *monthly*, or *annually* to the end of the sentence. All board members, including officers, may make motions and vote.

presiding officer may approve or deny the request but a denial is subject to being overturned by a majority vote of the members present.¹¹

Minutes

The Board Secretary shall keep written minutes of all Board meetings (whether open or closed), which shall be signed by the President and the Secretary.¹² The minutes include: ¹³

1. The meeting's date, time, and place;
2. Board members recorded as either present or absent;
3. A summary of the discussion on all matters proposed, deliberated, or decided, and a record of any votes taken;
4. On all matters requiring a roll call vote, a record of who voted *yea* and *nay*;
5. If the meeting is adjourned to another date, the time and place of the adjourned meeting;
6. The vote of each member present when a vote is taken to hold a closed meeting or portion of a meeting, and the reason for the closed meeting with a citation to the specific exception contained in the Open Meetings Act authorizing the closed meeting;
7. A record of all motions, including individuals making and seconding motions;
8. Upon request by a Board member, a record of how he or she voted on a particular motion;¹⁴ and
9. The type of meeting, including any notices and, if a reconvened meeting, the original meeting's date.

The minutes shall be submitted to the Board for approval or modification at its next regularly scheduled open meeting. Minutes for open meetings must be approved within 30 days after the meeting or at the second subsequent regular meeting, whichever is later. ¹⁵

At least semi-annually in an open meeting, the Board: (1) reviews minutes from all closed meetings that are currently unavailable for public release, and (2) decides which, if any, no longer require confidential treatment and are available for public inspection.¹⁶ The Board may meet in a prior closed

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

¹¹ This paragraph's first sentence contains the requirements in 105 ILCS 5/10-7. The second sentence is optional and may be deleted or amended. Other optional provisions include:

Option 1: Any Board member may include a written explanation of his or her vote in the District file containing individual Board member statements; the explanation will not be part of the minutes.

Option 2: Any Board member may request that his or her vote be changed before the President announces the result.

¹² 105 ILCS 5/10-7 and 5 ILCS 120/2.06. The minutes are the only record showing that the board took official action, including necessary prerequisites to make such action legally sufficient. A non-member recording secretary or clerk may be given these responsibilities (105 ILCS 5/10-14).

¹³ All items listed are required to be recorded in minutes **except** items 7-9; other items may be included at the board's discretion (5 ILCS 120/2.06 and 120/2a; 105 ILCS 5/10-7). The Ill. Public Access Counselor found a board's vague reference to a *personnel matter* insufficient to meet the requirements of #3 (PAO 13-07).

¹⁴ The intent behind this optional item is to give an individual member a means of recording his or her support or opposition to a motion that was taken by oral vote; it will record that the individual took an alternative position to that of the majority without having the minutes recite unnecessary detail.

¹⁵ Required by 5 ILCS 120/2.06(b).

¹⁶ Required by 5 ILCS 120/2.06(c). While board notes from closed sessions may be confidential under the Freedom of Information Act, they may be discoverable by the opposing party in a lawsuit. Bobkoski v. Cary School Dist. 26, 141 F.R.D. 88 (N.D. Ill., 1992).

The failure to strictly comply with the semi-annual review does not cause the written minutes or related verbatim record to become public, provided that the board, within 60 days of discovering its failure to strictly comply, reviews the closed session minutes and reports the result of that review in open session (5 ILCS 120/2.06).

session to review the minutes from closed meetings that are currently unavailable for public release. 17

The Board's meeting minutes must be submitted to the Board Treasurer at such times as the Treasurer may require. 18

The official minutes are in the custody of the Board Secretary.19 Open meeting minutes are available for inspection during regular office hours within ten days after the Board's approval;20 they may be inspected in the District's main office, in the presence of the Secretary, the Superintendent or designee, or any Board member.

Minutes from closed meetings are likewise available, but only if the Board has released them for public inspection, except that Board members may access closed session minutes not yet released for public inspection (1) in the District's administrative offices or their official storage location, and (2) in the presence of the Recording Secretary, the Superintendent or designated administrator, or any elected Board member.21 The minutes, whether reviewed by members of the public or the Board, shall not be removed from the District's administrative offices or their official storage location Superintendent's office except by vote of the Board or by court order.22

The Board's open meeting minutes shall be posted on the District website within ten days after the Board approves them; the minutes will remain posted for at least 60 days. 23

Verbatim Record of Closed Meetings

The Superintendent, or the Board Secretary when the Superintendent is absent, shall audio record all closed meetings.24 If neither is present, the Board President or presiding officer shall assume this responsibility. After the closed meeting, the person making the audio recording shall label the recording with the date and store it in a secure location. The Superintendent shall ensure that: (1) an audio recording device and all necessary accompanying items are available to the Board for every closed meeting, and (2) a secure location for storing closed meeting audio recordings is maintained close to the Board's regular meeting location. 25

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

17 5 ILCS 120/2 allows boards to discuss the confidentiality needs of closed meeting minutes in closed meetings.

18 Required by 105 ILCS 5/10-7.

19 Optional provision: "A copy of the minutes is kept in a secure location appropriate for valuables."

20 Required by 5 ILCS 120/2.06.

21 5 ILCS 120/2.06(e), amended by P.A. 99-515. The listed individuals in the statute are matched to the titles in the IASB Policy Reference Manual. If the board wishes to mirror the statutory language, delete: ~~the Recording Secretary, the Superintendent or designated administrator, or any elected Board member~~ and replace with: "a records secretary, an administrative official of the public body, or any elected official of the public body."

See the discussion in paragraph two of f/n 27 below about what in the presence of means.

22 Id.

23 Posting on the website is required *only if* the district has a website that is maintained by a full-time staff member; if not, this sentence may be omitted (5 ILCS 120/2.06(b)).

24 Boards must keep a verbatim record of their closed meetings in the form of an audio or video recording (5 ILCS 120/2.06, amended by P.A. 99-515). This sample policy uses audio recording only; a board that uses a video recording should amend this policy and exhibit 2:220-E1, Board Treatment of Closed Meeting Verbatim Recordings and Minutes.

The interests of continuity, efficiency, and ease of holding someone accountable suggest that the superintendent be made responsible for making and storing the verbatim recordings. If the superintendent is not present, e.g., during discussions concerning the superintendent's contract, the tasks should be given to a board member.

25 Alternatively, use: "is maintained within the District's administrative main offices or their official storage location."

After 18 months have passed since being made, the audio recording of a closed meeting is destroyed provided the Board approved: (1) its destruction, and (2) minutes of the particular closed meeting. ²⁶

Individual Board members may access ~~listen to~~ verbatim recordings in the presence of the Recording Secretary, the Superintendent or designated administrator, or any elected Board member.²⁷ Access to the verbatim recordings is available at the District's administrative offices or the verbatim recording's official storage location.²⁸ Requests shall be made to the Superintendent or Board President, ~~when that action is~~ While a Board member is listening to a verbatim recording, it shall not be re-recorded or removed from the District's main office or official storage location, except by vote of the Board or by court order.²⁹

Before making such requests, Board members should consider whether such requests are germane to their responsibilities, service to District, and/or Oath of Office in policy 2:80, Board Member Oath and Conduct. In the interest of encouraging free and open expression by Board members during closed meetings, the recordings of closed meetings should not be used by Board members to confirm or dispute the accuracy of recollections. ³⁰

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²⁶ This paragraph paraphrases 5 ILCS 120/2.06(c). No notification to, or the approval of, a records commission or the State Archivist is needed if a recording is destroyed under the conditions listed.

²⁷ 5 ILCS 120/2.06(e), amended by P.A. 99-515. The listed individuals align with the other titles used in the IASB Policy Reference Manual. If the board wishes to mirror the statute, delete: ~~the Recording Secretary, the Superintendent or designated administrator, or any elected Board member~~ and replace with: "a records secretary, an administrative official of the public body, or any elected official of the public body."

The intent of the *in the presence of* language is meant to protect both (1) the verbatim recordings/closed session minutes (see f/n 21 above), and (2) the board members requesting access to them. It ensures that a school district official is present at all times when a requesting board member accesses the verbatim recording/closed session minutes. The requirement is meant to prevent misuse and removal of the verbatim recording/closed session minutes from the district offices or official storage location. It is also meant to protect the board member who requests the access from being alone and in a situation where he or she could potentially be accused of tampering with or taking the verbatim recording/closed session minutes.

Consult the board attorney about:

1. The practice of sending an *appointed* board member to be present with a board member who requests access to verbatim recordings/closed session minutes. 105 ILCS 120/2.06(e) states, "any *elected* member of the Board;" appointed is not listed but is mentioned elsewhere in the language of this section of the law;
2. Access to verbatim recordings/closed session minutes by other officials employed by the district, e.g., superintendent or other high-level administrators and even the board attorney; and
3. How this law affects the sharing of closed session minutes with board members prior to a meeting at which the closed session minutes will be approved.

The intent of P.A. 99-515 was to manage a board member's individual request for access to these items in his or her individual capacity (see 2:80, Board Member Oath and Conduct), not change prior practices in regard to other officials and board attorneys or the required work of school boards under various laws. While many attorneys do not interpret the new law to restrict access or change procedures for these other high-level school officials and attorneys employed by the district, some attorneys do and it is important to obtain legal advice on this specific issue.

²⁸ Id.

²⁹ Id.

³⁰ This paragraph is optional. It provides boards an opportunity to discuss and encourage each member to carefully think about purposes for their requests to listen to verbatim recordings, which historically has been and should continue to be to "access information relevant to the exercise of duties" for the public body. Intra-board conflicts may escalate if the recording is used to confirm or dispute who-said-what. Prior to P.A. 99-515, the Open Meetings Act did (and still does) allow boards to release these types of information (5 ILCS 120/2.06(e)). Further, Att'y Gen. Op. 32, 1996, opined that board members cannot be denied access to information relevant to the exercise of his or her duties. Board members should evaluate whether their requests under P.A. 99-515 are "relevant to the exercise of their duties" before making such requests. Confirming or disputing who-said-what diverts resources away from operations of the district in educating its students. Additional considerations in listening to verbatim recordings may include personnel and student records confidentiality issues, which should be discussed with the board attorney.

Quorum and Participation by Audio or Video Means ³¹

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

Provided a quorum is physically present, a Board member may attend a meeting by video or audio conference if he or she is prevented from physically attending because of: (1) personal illness or disability, (2) employment or District business, or (3) a family or other emergency. If a member wishes to attend a meeting by video or audio means, he or she must notify the recording secretary or Superintendent at least 24 hours before the meeting unless advance notice is impractical. The recording secretary or Superintendent will inform the Board President and make appropriate arrangements. A Board member who attends a meeting by audio or video means, as provided in this policy, may participate in all aspects of the Board meeting including voting on any item.

Rules of Order

Unless State law or Board-adopted rules apply, the Board President, as the presiding officer, will use Robert's Rules of Order, Newly Revised (10th Edition), as a guide when a question arises concerning procedure. ³²

Broadcasting and Recording Board Meetings

Any person may record or broadcast an open Board meeting.³³ Special requests to facilitate recording or broadcasting an open Board meeting, such as seating, writing surfaces, lighting, and access to electrical power, should be directed to the Superintendent at least 24 hours before the meeting.

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

LEGAL REF.: 5 ILCS 120/2a, 120/2.02, 120/2.05, and 120/2.06.
105 ILCS 5/10-6, 5/10-7, 5/10-12, and 5/10-16.

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

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

³¹ 5 ILCS 120/2.01 and 120/7. See also 105 ILCS 5/10-6 and 5/10-12. In order to allow attendance by video or audio means, a board must adopt a policy conforming to the restrictions in the Open Meetings Act. The statute requires the board member who wishes to attend remotely to notify the "recording secretary or clerk of the public body." The policy includes the superintendent as a possible person to receive the notice. Everything in this section is required aside from provisions on the length of notification that is given the secretary and the process for accommodating the request. Alternatively, a board may: (1) prohibit members from participating by video or audio means by omitting this section, (2) add other requirements, or (3) alter the 24 hour notification. Note that the statute does not contemplate someone either *approving* or *denying* a request, only that the request be accommodated if the notification is provided.

³² Boards are not required to follow any particular rules of order. Rules, however, must be in writing and available for public inspection, in order to have any legal effect (105 ILCS 5/10-20.5).

³³ The public's right to record meetings must be addressed in board policy (5 ILCS 120/2.05). However, a provision requiring advance notice to record a meeting is invalid (PAO 12-10).

Comment [KAS1]: Policy is unchanged. Footnote discussions include new FOIA fines pursuant to P.A. 99-586, eff. 1-1-17 and Public Access Counselor opinions.

School Board

Access to District Public Records ¹

Full access to the District's *public records* is available to any person as provided in the Illinois Freedom of Information Act (FOIA), this policy, and implementing procedures. The Superintendent or designee shall: (1) provide the Board with sufficient information and data to permit the Board to monitor the District's compliance with FOIA and this policy, and (2) report any FOIA requests during the Board's regular meetings along with the status of the District's response. ²

Freedom of Information Officer ³

The Superintendent shall serve as the District's Freedom of Information Officer and assumes all the duties and powers of that office as provided in FOIA and this policy. The Superintendent may delegate these duties and powers to one or more designees, but the delegation shall not relieve the Superintendent of the responsibility for the action that was delegated.

Definition ⁴

The District's *public records* are defined as records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary material pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of the School District.

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¹ The Illinois Freedom of Information Act (FOIA) governs the subject matter in this policy (5 ILCS 140/). School districts are required to make public records available to any person for inspection or copying, unless they fall within an exception (5 ILCS 140/3(a)). The f/ns only discuss sections of FOIA that are relevant to school districts. State law does not explicitly require boards to adopt a policy on access to their records. However, a board policy is the logical instrument to memorialize the actions that are required to implement FOIA. The laws limiting the disclosure of employee evaluations are discussed in f/n 7.

Any person denied access to a public record may request a review by the Ill. Public Access Counselor (PAC) established in the office of the Attorney General (5 ILCS 140/9.5). As a result of the review, the PAC may issue an opinion binding on the requester and public body. IASB reports on the opinions relevant to school districts on its website at:

www.iasb.com/law/decisions.cfm?SubjectArea=Freedom%20of%20Information%20Act%20-%20FOIA.

² This sentence allows a board to monitor the district's compliance with FOIA. This is an important duty as illustrated by FOIA's provision stating: "It is a fundamental obligation of government to operate openly and provide public records as expeditiously and efficiently as possible." The School Code requires the FOIA report described in #2 (105 ILCS 5/10-16); it is optional, however, for districts governed by a board of school directors.

³ Each board must designate one or more official(s) or employee(s) to act as its freedom of information officer(s) (5 ILCS 140/3.5)(referred to in the f/ns as **FOIA Officer**). A board may replace *Superintendent* in this paragraph with another job title, or may replace the paragraph with one of the alternatives below:

Alternative 1: The Board will appoint an employee to serve as the District's Freedom of Information Officer. That appointee assumes all the duties and powers of that office as provided in FOIA and this policy.

Alternative 2: The Superintendent shall appoint an employee, who may be himself or herself, to [continue as with alternative 1].

⁴ The definition is quoted from 5 ILCS 140/2(c). Substitute the following alternative for this paragraph if desired: "The definition of *public records*, for purposes of this policy, is the definition contained in Section 2(c) of FOIA without amendment."

Requesting Records 5

A request for inspection and/or copies of public records must be made in writing and may be submitted by personal delivery, mail, telefax, or email directed to the District's Freedom of Information Officer. Individuals making a request are not required to state a reason for the request other than to identify when the request is for a commercial purpose or when requesting a fee waiver. The Superintendent or designee shall instruct District employees to immediately forward any request for inspection and copying of a public record to the District's Freedom of Information Officer or designee.

Responding to Requests

The Freedom of Information Officer shall approve all requests for public records unless:

1. The requested material does not exist; 6
2. The requested material is exempt from inspection and copying by the Freedom of Information Act; 7 or
3. Complying with the request would be unduly burdensome. 8

Within five business days after receipt of a request for access to a public record, the Freedom of Information Officer shall comply with or deny the request, unless the time for response is extended as specified in Section 3 of FOIA.⁹ The Freedom of Information Officer may extend the time for a response for up to five business days from the original due date.¹⁰ If an extension is needed, the Freedom of Information Officer shall: (1) notify the person making the request of the reason for the

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⁵ This section restates 5 ILCS 140/3(c). Districts may, but are not required to, accept oral requests. Compliance with an oral request may stave off the formal written request and permit more flexibility in the response. Add this option if the district wants to accept oral requests: "Oral requests may be accepted provided personnel are available to handle them." The response to an oral request should be documented. Districts may provide a request form for convenience but may not require its use. See 2:250-E1, *Written Request for District Public Records*.

⁶ FOIA does not require a public body to create a record (5 ILCS 140/1). However, compiling information already in the public body's possession into a different format in order to respond to a FOIA request does not constitute the creation of a new record (PAO 15-10). See also Hites v. Waubonsee Community College, 2016 WL 150836 (Ill.App.Ct. June 6, 2016)(holding that databases which house aggregations of data and do not merely store documents are subject to FOIA).

⁷ 5 ILCS 140/7 and 140/7.5 describe numerous explicit exceptions to the presumption that all public records are available for public inspection. Each record is "presumed to be open to inspection or copying" and the district will have "the burden of proving by clear and convincing evidence that it is exempt," (5 ILCS 140/1.2 and 140/11(f)). A person who prevails in a court proceeding to enforce FOIA will be awarded attorney's fees; the public body may incur a civil penalty of between \$2,500 and \$5,000 for each occurrence of a willful or intentional violation of FOIA or other action in bad faith; and courts may impose additional penalties of up to \$1,000 for each day the violation continues if (1) the board fails to comply with the court's order after 30 days, (2) the court's order is not on appeal or stayed, and (3) the court does not grant the public body additional time to comply with the court's order to disclose public records (5 ILCS 140/11(i) and (j)), amended by P.A. 99-586, eff. 1-1-17. School officials should seek the board attorney's advice concerning the denial of a record request.

Two State laws limit the disclosure of employee personnel evaluations:

1. The Personnel Record Review Act prohibits the disclosure of performance evaluations (820 ILCS 40/11).
2. The School Code prohibits the disclosure of public school teacher, principal, and superintendent performance evaluations except as otherwise provided in the certified employee evaluation laws (105 ILCS 5/24A-7.1).

⁸ 5 ILCS 140/3(g).

⁹ 5 ILCS 140/3(d). Reasons for extensions are addressed at 5 ILCS 140/3(e). Public bodies must respond to FOIA requests (PAOs 16-05, 16-04, 16-04, and 16-03, and 16-01). Public bodies must also conduct a reasonable search for public records responsive to a FOIA request, which includes searching public employees' communications on personal devices or accounts for records pertaining to the transaction of public business (PAO 16-06).

¹⁰ 5 ILCS 140/3(e).

extension, and (2) either inform the person of the date on which a response will be made, or agree with the person in writing on a compliance period. **11**

The time periods are extended for responding to requests for records made for a *commercial purpose*, requests by a *recurrent requester*, or *voluminous requests*, as those terms are defined in Section 2 of FOIA. The time periods for responding to those requests are governed by Sections 3.1, 3.2, and 3.6 of FOIA. **12**

When responding to a request for a record containing both exempt and non-exempt material, the Freedom of Information Officer shall redact exempt material from the record before complying with the request. **13**

Fees **14**

Persons making a request for copies of public records must pay any and all applicable fees. The Freedom of Information Officer shall establish a fee schedule that complies with FOIA and this policy and is subject to the Board's review. The fee schedule shall include copying fees and all other fees to the maximum extent they are permitted by FOIA, including without limitation, search and review fees for responding to a request for a *commercial purpose* and fees, costs, and personnel hours in connection with responding to a *voluminous request*.

Copying fees, except when fixed by statute, shall be reasonably calculated to reimburse the District's actual cost for reproducing and certifying public records and for the use, by any person, of its equipment to copy records. In no case shall the copying fees exceed the maximum fees permitted by FOIA. If the District's actual copying costs are equal to or greater than the maximum fees permitted by FOIA, the Freedom of Information Officer is authorized to use FOIA's maximum fees as the District's fees. No copying fees shall be charged for: (1) the first 50 pages of black and white, letter or legal sized copies, or (2) electronic copies other than the actual cost of the recording medium, except if the response is to a *voluminous request*, as defined in FOIA.

A fee reduction is available if the request qualifies under Section 6 of FOIA. The Freedom of Information Officer shall set the amount of the reduction taking into consideration the amount of material requested and the cost of copying it. **15**

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

11 5 ILCS 140/3(f). A board may replace the default paragraph with the following alternative: "The Freedom of Information Officer shall respond to record requests according to the time periods described in Section 3 of FOIA."

12 The timelines are extended to respond to a: (1) *recurrent requester* (defined in Sec. 2(g)); (2) request with a *commercial purpose* (defined in Sec. 2(c-10)); and (3) *voluminous request* (defined in Sec. 2(h)). To use the extended timelines, a district must follow the requirements in Sec. 3.2+ for responding to a *recurrent requester*; Sec. 3.1+ for responding to a request with a *commercial purpose*; and Sec. 3.6 (added by P.A. 98-1129) for responding to a *voluminous request*. See the administrative procedure, 2:250-API, *Access to and Copying of District Public Records*, for additional information.

13 5 ILCS 140/7. Redacting exempt portions is permitted, but not required, except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted before disclosure (5 ILCS 140/2.10). Reviewing past responses to FOIA requests will promote uniform treatment of requests for similar records.

14 5 ILCS 140/6, amended by P.A. 98-1129. The first paragraph's intent is to be efficient and avoid paraphrasing a complex law. The procedure 2:250-API, *Access to and Copying of District Public Records*, contains a fee schedule identifying the maximum fees permitted.

Section 6(a) states: "If a request is *not* a request for a *commercial purpose* or a *voluminous request*, a public body may *not* charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records." (Emphasis added.) This implies that a search and review fee may be charged when responding to a request for a *commercial purpose* or a *voluminous request*. However, Sec. 6(b) states that the search and review fee described in Sec. 6(f) may be charged *only* to someone making a *commercial request*. Sec. 6(f) contains the maximum amounts that may be charged for search and review but does not explain when they may be charged. The FOIA Officer will need to consult the board attorney concerning fees.

Provision of Copies and Access to Records

A public record that is the subject of an approved access request will be available for inspection or copying at the District's administrative office during regular business hours, unless other arrangements are made by the Freedom of Information Officer. **16**

Many public records are immediately available from the District's website including, but not limited to, the process for requesting a public record.¹⁷ The Freedom of Information Officer shall direct a requester to the District's website if a requested record is available there. If the requester is unable to reasonably access the record online, he or she may resubmit the request for the record, stating his or her inability to reasonably access the record online, and the District shall make the requested record available for inspection and copying as otherwise provided in this policy. **18**

Preserving Public Records

Public records, including email messages, shall be preserved and cataloged if: (1) they are evidence of the District's organization, function, policies, procedures, or activities, (2) they contain informational data appropriate for preservation, (3) their retention is required by State or federal law, or (4) they are subject to a retention request by the Board Attorney (e.g., a litigation hold), District auditor, or other individual authorized by the School Board or State or federal law to make such a request.¹⁹ Unless its

15 5 ILCS 140/6(c) makes it mandatory to furnish records "without charge or at a reduced charge" if the request is in the *public interest* as defined by FOIA. If a board wants to indicate when a reduction is available by paraphrasing the statute, it may substitute the following alternative for the default paragraph:

A fee reduction is available if the person requesting the record states a specific purpose for the request and indicates that a fee reduction is in the public interest by having as its principal purpose the preservation of the general public's health, safety, welfare, or legal rights and is not for the principal purpose of personal or commercial benefit. The Freedom of Information Officer shall set the amount of the reduction, taking into consideration the amount of material requested and the cost of copying it.

16 Public bodies may adopt rules for the times and places where records will be made available (5 ILCS 140/3(h)). A board may amend this sentence to reflect other times and/or places where records will be made available.

17 5 ILCS 140/4. A district may reduce FOIA requests by posting records on its website. Many records are required to be web-posted, see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. If the district does not have a website, change this ~~paragraph~~ sentence as follows: "Some public records are available for immediate access including a description of the process for requesting a public record, and a list of all types or categories of records under its control."

For a list of required web-postings, see exhibit 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Using the district's website is also a convenient way to comply with FOIA's requirement to identify documents that are *immediately* available (5 ILCS 140/3.5(a)). Although not required to be web-posted, a list of all types or categories of records under its control must be prepared and made available (5 ILCS 140/5). See 2:250-AP1, *Access to and Copying of District Public Records*.

18 5 ILCS 140/8.5, added by P.A. 98-1129.

19 The Local Records Act, 50 ILCS 205/3, requires the preservation of records described in items #1-3. The preservation of records described in item #3 is also required by the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, and the Ill. School Student Records Act, 105 ILCS 10/, among other laws. An example of a record described in item #4 is a record subject to a *litigation hold* or a document preservation requirement pursuant to Federal Rules of Civil Procedure, Rules 16 and 26.

Categorizing email messages is complicated because two laws apply and the rules differ when a board member is a party. See sample policy 2:140, *Communications To and From the Board*, for a discussion of email between or among board members. When employees or agents are using email for school purposes, the email messages may be *public records*, but will not necessarily be subject to disclosure depending on the topic discussed. FOIA's list of exemptions from disclosure determines whether these emails are subject to disclosure. For exemptions, see 5 ILCS 140/7 and 140/7.5.

Not all email messages between or among employees must be preserved, even if they are *public records* for purposes of FOIA. The definition of *public record* in the Local Records Act, 50 ILCS 205/3, is narrower than its definition in FOIA. Thus, staff email, like all district records, must be retained only when it contains material described in #1-4. While this is a slippery slope without definitive parameters, employee email that is conversational or personal, or contains brainstorming may generally be deleted.

retention is required as described in items numbered 3 or 4 above, a public record, as defined by the Illinois Local Records Act, may be destroyed when authorized by the Local Records Commission. **20**

LEGAL REF.: 5 ILCS 140/, Illinois Freedom of Information Act.
105 ILCS 5/10-16 and 5/24A-7.1.
820 ILCS 40/11.
820 ILCS 130/5.

CROSS REF.: 2:140 (Communications To and From the Board), 5:150 (Personnel Records),
7:340 (Student Records)

The Prevailing Wage Act (820 ILCS 130/5, ~~amended by P.A.s 98-328 and 98-482~~) requires contractors, while participating in public works, to keep certified payroll records of all laborers, mechanics, and other workers employed by them on the project and to submit this record no later than the 15th of the month to the public body. The public body in charge of the project must keep the records submitted before 1-1-14 for a period of not less than ~~3~~three years. Records submitted on or after 1-1-14 must be kept for a period of ~~5~~five years. Records may be retained in paper or electronic format. These records must be made available in accordance with FOIA except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted before disclosure (5 ILCS 140/2.10).

20 50 ILCS 205/. Preservation and destruction of documents is covered in 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*. See also the Ill. Secretary of State's website for information on preserving and destroying records, ~~—~~ www.cyberdriveillinois.com/departments/archives/records_management/recman.html.

Comment [KAS1]: Policy is unchanged. Footnotes reflect P.A. 99-846. It allows certain qualifying districts to appoint a chief executive officer to serve as its superintendent.

General School Administration

Superintendent 1

Duties and Authority

The Superintendent is the District's executive officer and is responsible for the administration and management of the District schools in accordance with School Board policies and directives, and State and federal law. District management duties include, without limitation, preparing, submitting, publishing, and posting reports and notifications as required by State and federal law.² The Superintendent is authorized to develop administrative procedures and take other action as needed to implement Board policy and otherwise fulfill his or her responsibilities. The Superintendent may delegate to other District staff members the exercise of any powers and the discharge of any duties imposed upon the Superintendent by Board policies or by Board vote. The delegation of power or duty, however, shall not relieve the Superintendent of responsibility for the action that was delegated.³

Qualifications

The Superintendent must be of good character and of unquestionable morals and integrity. The Superintendent shall have the experience and the skills necessary to work effectively with the Board, District employees, students, and the community. The Superintendent must have and maintain a Professional Educator License with a superintendent endorsement issued by the Illinois State Educator Preparation and Licensure Board.⁴

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

¹ State law controls this policy's content. Unless the district has only one school with fewer than four teachers, the board must employ a superintendent or a chief executive officer as allowed under specific circumstances (105 ILCS 5/10-21.4, amended by P.A. 99-846). This statute assigns some specific duties to the superintendent including to: (1) make recommendations to the board concerning the budget, building plans, the locations of sites, the selection, retention, and dismissal of teachers and all other employees, the selection of textbooks, instructional material, and courses of study, (2) report to the board, ISBE, and chief administrative official any employee named in an abused child report, and (3) keep or cause to be kept the records and accounts as directed and required by the board, aid in making reports required by the board, and perform such other duties as the board may delegate to him/her. 105 ILCS 5/10-16.7 requires boards to direct, through policy, the superintendent, in his or her charge of the district's administration.

ISBE is required, subject to an annual appropriation by the General Assembly, to establish a new superintendent mentoring program. With limited exceptions, any individual serving as a first-time superintendent in Illinois must participate in the mentoring program for two school years (105 ILCS 5/2-3.53b). The ISBE-selected provider will assign a mentor to a new superintendent based on similarity of grade level or type of district, learning needs, and geographical proximity. The mentor must not be required to evaluate the new superintendent on the basis of the mentoring relationship.

² See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*, for an annotated list of documents and reports that must be posted on the district's website, if the district has a website. While not comprehensive, see the IASB's *Annual School Calendar* for the required reports that do not need web-posting, available on the IASB website at: www.iasb.com/pdf/schoolcal.pdf; iasb.com/law/.

³ This paragraph strengthens the policy's connection to the IASB's *Foundational Principles of Effective Governance*. It allows the superintendent broad delegation authority even when a policy fails to specifically provide for delegation.

⁴ 105 ILCS 5/21B-20 and 5/21B-25 govern Professional Educator Licenses and superintendent endorsements. See also 23 Ill. Admin. Code §§25.355 (endorsements on or after 9-1-16~~2019~~ rule only states the year), 25.360 (through 8-31-~~20~~19), 29.100 (Ill. Professional School Leader Standards), and 29.130 (Superintendent Standards).

Evaluation

The Board will evaluate, at least annually, the Superintendent's performance and effectiveness, using standards and objectives developed by the Superintendent and Board that are consistent with the Board's policies and the Superintendent's contract.⁵ A specific time should be designated for a formal evaluation session with all Board members present. The evaluation should include a discussion of professional strengths as well as performance areas needing improvement.

The Superintendent shall annually present evidence of professional growth through attendance at educational conferences, in-service training, or similar continuing education pursuits.⁶

Compensation and Benefits⁷

The Board and the Superintendent shall enter into an employment agreement that conforms to Board policy and State law. This contract shall govern the employment relationship between the Board and the Superintendent. The terms of the Superintendent's employment agreement, when in conflict with this policy, will control.

LEGAL REF.: 105 ILCS 5/10-16.7, 5/10-20.47, 5/10-21.4, 5/10-23.8, 5/21B-20, 5/21B-25, 5/24-11, and 5/24A-3.
23 Ill.Admin.Code §§1.310, 1.705, and 29.130.

CROSS REF: 2:20 (Powers and Duties of the School Board; Indemnification), 2:130 (Board-Superintendent Relationship), 2:240 (Board Policy Development), 3:10 (Goals and Objectives)

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

⁵ 105 ILCS 5/10-16.7 requires a board to evaluate the superintendent. See [The Superintendent Evaluation Process](#) on the IASB website. While greater detail may be added to this paragraph (e.g., a timeline, self-evaluation provision, and discussion requirements), a board must be sure that the policy and the superintendent's contract are consistent.

⁶ The reporting requirements in this paragraph are optional, but school boards must "require evaluators to participate in an in-service training on the evaluation of licensed personnel provided or approved by [ISBE] prior to undertaking any evaluation and at least once during each license renewal cycle," (105 ILCS 5/24A-3).

⁷ According to 105 ILCS 5/10-23.8, a superintendent must be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights, or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators; see [Superintendent Performance Contracts](#), published by IASB. Residency requirements, if desired, should be included in a superintendent's employment contract.

The employment contract should be *in writing* even though the School Code does not require it to be written. Contact the board attorney for assistance. An administrator who is not working under a written contract is presumed to have a contract of one year's duration. [Schaumburg Community Consolidated School Dist. v. TRS](#), 985 N.E.2d 305 (Ill.App.4, 2013)(interpreting 105 ILCS 5/10-23.8a). The Ill. Statute of Frauds may make it impossible to execute an *oral* multi-year administrator contract or to *orally* extend a multi-year written contract (740 ILCS 80/1).

The Open Meetings Act requires all Ill. Municipal Retirement Fund (IMRF) employers, which includes school boards, to: (1) within 6 business days after approving a budget, web-post each employee's total compensation package if it exceeds \$75,000 per year; and (2) at least ~~6~~^{six} days before approval, web-post an employee's total compensation package if it is \$150,000 or more (5 ILCS 120/7.3). Conflicting opinions concern whether school districts must comply with these posting requirements for their employees who do not participate in IMRF. Contact the board attorney for advice.

Annually by Oct. 1, each school board must report to ISBE the base salary and benefits of the superintendent, administrators, and teachers it employs (105 ILCS 5/10-20.47). Before this annual reporting to ISBE, the information must be presented at a regular school board meeting and then posted on the district's website, if any.

General School Administration

Administrative Personnel Other Than the Superintendent ¹

Duties and Authority

The School Board establishes District administrative and supervisory positions in accordance with the District's needs and State law. This policy applies to all administrators other than the Superintendent, including without limitation, Building Principals. The general duties and authority of each administrative or supervisory position are approved by the Board, upon the Superintendent's recommendation, and contained in the respective position's job description. ² In the event of a conflict, State law and/or the administrator's employment agreement shall control.

Qualifications

All administrative personnel shall be appropriately licensed and shall meet all applicable requirements contained in State law and Illinois State Board of Education rules. ³

Evaluation

The Superintendent or designee shall evaluate all administrative personnel and make employment and salary recommendations to the Board. ⁴

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. 105 ILCS 5/10-23.8a requires each principal, assistant principal, and other school administrator to be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights, or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators.

² Job descriptions are advisable, but optional. See policy 5:30, *Hiring Process and Criteria*, for a discussion of job descriptions. An ISBE rule (23 Ill.Admin.Code §1.310) allows *divided service*, meaning that a superintendent or principal may be employed by two school districts or serve in ~~two~~ professional capacities provided that full-time equivalency results in a maximum of one full-time position. In districts with an enrollment of 100 or fewer, an individual may serve as superintendent/principal and teach up to ~~one-half~~ day.

³ 105 ILCS 5/21B-20 and 5/21B-25 govern Professional Educator Licenses and administrative, principal, and chief school business official endorsements. The requirements for supervisory or administrative staff are in 23 Ill.Admin.Code §1.705; the requirements for endorsements are in 23 Ill.Admin.Code Part 25, Subpart E. Standards for Administrative Endorsements are in 23 Ill.Admin.Code Part 29.

The following option may be added at the end of this paragraph:

Administrative personnel must reside in the District within a specified period as provided in their initial employment agreement.

State law (105 ILCS 5/24-4.1) prohibiting residency requirements for teachers does not apply to non-instructional personnel, e.g., assistant principals. *Owen v. Kankakee School Dist.*, 632 N.E.2d 1073 (Ill.App.3, 1994). A board may impose residency requirements on a principal or assistant principal only if the individual's initial contract with the district made residency an express condition of employment or continued employment as a principal (105 ILCS 5/10-21.4a). Residency within a district may not be considered in determining a principal's compensation, assignment, or transfer (Id.).

⁴ All licensed school district employees must be evaluated (105 ILCS 5/24A-1, 23 Ill.Admin.Code §1.320). Each district must implement a performance evaluation plan for its principals and assistant principals (105 ILCS 5/24A-15, 23 Ill.Admin.Code §50.300). The statutory deadline for evaluating principals and assistant principals depends on whether the individual's employment contract is for one year or multiple years: (1) the evaluation of individuals on a single year contract must take place annually by March 1, and (2) the evaluation of individuals on a multi-year contract must take place by March 1 of the contract's final year (105 ILCS 5/24A-15). Individual contracts may require an earlier deadline. 105 ILCS 5/24A-3 requires that an individual who conducts an evaluation of a teacher, principal, or assistant principal, (1) be prequalified before undertaking any evaluation, and (2) participate in a regularly scheduled retraining program.

Administrators shall annually present evidence to the Superintendent of professional growth through attendance at educational conferences, additional schooling, in-service training, and Illinois Administrators' Academy courses, or through other means as approved by the Superintendent. ⁵

Administrative Work Year

The work year for administrators shall be the same as the District's fiscal year, July 1 through June 30, unless otherwise stated in the employment agreement. In addition to legal holidays, administrators shall have vacation periods as approved by the Superintendent. All administrators shall be available for work when their services are necessary. ⁶

Compensation and Benefits

The Board and each administrator shall enter into an employment agreement that complies with Board policy and State law. ⁷ The terms of an individual employment contract, when in conflict with this policy, will control.

The Board will consider the Superintendent's recommendations when setting compensation for individual administrators. These recommendations should be presented to the Board no later than the March Board meeting or at such earlier time that will allow the Board to consider contract renewal and nonrenewal issues. ⁸

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

⁵ The professional growth reporting requirements in this paragraph are optional. However, professional development activities are required for license renewal. 105 ILCS 5/21B-45, amended by P.A. 99-591, eff. 1-1-17, contains the license renewal process, along with the professional development hours and carry over of these hours.

A school board must require the administrators who evaluate employees to complete training on the evaluation of licensed personnel that is provided or approved by ISBE (105 ILCS 5/24A-3 and 5/24A-20(a)(4)). Any prequalification process or retraining program developed and used by a school district must, at a minimum, meet the requirements of 23 Ill.Admin.Code Part 50, Subpart E. Administrative personnel must participate in this training (1) before they evaluate, and (2) at least once during each certificate renewal cycle (Id.).

⁶ Legal holidays are provided by 105 ILCS 5/24-2.

⁷ According to 105 ILCS 5/10-23.8a, a principal, assistant principal, and any other school administrator must be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights, or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators.

The employment contract should be *in writing* even though the School Code does not require it to be written. Contact the board attorney for assistance. An administrator who is not working under a written contract is presumed to have a contract of one year's duration. Schaumburg Community Consolidated School Dist. v. TRS, 985 N.E.2d 305 (Ill.App.4, 2013)(interpreting 105 ILCS 5/10-23.8a). The Ill. Statute of Frauds may make it impossible to execute an *oral* multi-year administrator contract or to *orally* extend a multi-year written contract (740 ILCS 80/1).

The Open Meetings Act requires all Ill. Municipal Retirement Fund (IMRF) employers, which includes school boards, to: (1) within 6-six business days after approving a budget, web-post each employee's total compensation package if it exceeds \$75,000 per year; and (2) at least 6-six days before approval, web-post an employee's total compensation package if it is \$150,000 or more (5 ILCS 120/7.3). Conflicting opinions concern whether school districts must comply with these posting requirements for their employees who do not participate in IMRF. Contact the board attorney for advice.

Annually by Oct. 1, each school board must report to ISBE the base salary and benefits of the superintendent, administrators, and teachers it employs (105 ILCS 5/10-20.47). Before this annual reporting to ISBE, the information must be presented at a regular school board meeting and then posted on the district's website, if any.

⁸ State law does not address when the board should consider salary issues. The March deadline was chosen because the statutory notice deadline for reclassification is April 1 of the year in which a principal or assistant principal's contract expires unless the contract provides for an earlier deadline (105 ILCS 5/10-23.8b). Alternatively, the policy could require that recommendations be presented "in a timely manner."

Unless stated otherwise in individual employment contracts, all benefits and leaves of absence available to teaching personnel are available to administrative personnel. ⁹

LEGAL REF: 105 ILCS 5/10-21.4a, 5/10-23.8a, 5/10-23.8b, 5/21B, and 5/24A.
23 Ill.Admin.Code §§1.310, 1.705, and 50.300; and Parts 25 and 29.

CROSS REF: 3:60 (Administrative Responsibility of the Building Principal), 5:30 (Hiring Process and Criteria), 5:250 (Leaves of Absence)

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

⁹ State law does not require that administrative and teaching personnel receive identical benefits and leaves of absence, but it does set the minimum in days and type for all certificated personnel.

3:50

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Comment [KAS1]: The policy is unchanged. Footnotes are updated to reflect P.A. 99-713. It extended the time period during which a district may transfer money from specified funds for any purpose to 7-1-19.

Operational Services

Fiscal and Business Management¹

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

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

Budget Planning

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

Preliminary Adoption Procedures

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

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

The 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. Article 17 of the School Code controls budgeting, tax levys, and tax warrants.

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

³ 105 ILCS 5/10-17.

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

⁵ The board sets the fiscal year (105 ILCS 5/17-1) and this sentence should reflect that local decision.

⁶ The board must designate a person(s) to prepare a tentative budget (105 ILCS 5/17-1). The purpose of this policy's directive for the superintendent to present a tentative budget "no later than the first regular meeting in August" is to ensure that the budget can be adopted by September 30 (see f/n 14). A board may amend this directive to give the superintendent additional flexibility by requiring him or her to present a tentative budget "during a regular Board meeting in August."

⁷ Required by 105 ILCS 5/17-1. The budget instructions from ISBE detail when a deficit reduction plan must be completed.

⁸ State law requires the budget to be balanced and, if not, a ~~3~~three-year deficit reduction plan must be developed (105 ILCS 5/17-1).

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

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

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

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

Final Adoption Procedures

The Board adopts a budget before the end of the first quarter of each fiscal year, September 30, or by such alternative procedure as State law may define.¹³ To the extent possible, the budget shall be balanced as defined by the State Board of Education; if not balanced, the Board will adopt a deficit reduction plan to balance the District's budget within ~~3~~three years according to State Board of Education requirements.¹⁴

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

The Superintendent or designee shall perform each of the following:

1. Post the District's final annual budget, itemized by receipts and expenditures, on the District's Internet website; notify parents/guardians that it is posted and provide the website's address.¹⁶
2. File a certified copy of the budget resolution and an estimate of revenues by source anticipated to be received in the following fiscal year, certified by the District's Chief Fiscal Officer, with the County Clerk within 30 days of the budget's adoption.¹⁷
3. Make all preparations necessary for the Board to timely file its Certificate of Tax Levy, including preparations to comply with the Truth in Taxation Act; file the Certificate of Tax Levy with the County Clerk on or before the last Tuesday in December. The Certificate lists the amount of property tax money to be provided for the various funds in the budget.
4. Submit the annual budget, a deficit reduction plan if one is required by State Board of Education guidelines, and other financial information to the State Board of Education according to its requirements.¹⁸

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

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

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

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

¹³ Required by 105 ILCS 5/17-1 and 5/17-3.2.

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

¹⁵ Required by 105 ILCS 5/10-7.

¹⁶ Required by 105 ILCS 5/17-1.2, *only if* the district has a website. Do not add this sentence unless the district has a website.

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

¹⁸ Required by 105 ILCS 5/17-1.

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

Budget Amendments

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

Implementation

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

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

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

CROSS REF.: 4:40 (Incurring Debt), 6:235 (Access to Electronic Networks)

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

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

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

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

²² 105 ILCS 5/17-2A contains the requirements for a permanent transfer. P.A. ~~98-13499-713~~ extended the time period during which a district may transfer money from specified funds for any purpose to July 1, 201~~69~~.

²³ Transfers between the various items in any fund may not exceed in the aggregate ~~40-ten~~ percent of the total of such fund as set forth in the budget. If the aggregate exceeds ~~40-ten~~ percent, the board must amend the budget (105 ILCS 5/17-1).

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

105 ILCS 5/20-10 codified a long-held practice and understanding of Ill. school districts. A district may abate (reduce the funds) money from the working cash fund at any time and transfer it to any district fund or funds most in need of the money, provided that the district maintains an amount to the credit of the working cash fund. This was a legislative overturn of a case concluding that any permanent transfer, including abatements, of the working cash fund should be transferred only to the education fund (see G.I.S. Venture v. Novak, 902 N.E.2d 744 (Ill.App. 2nd Dist., 2009); G.I.S. Venture v. Novak, 2014 IL App. (2d) 130244 (9/30/2014)). Abolishments (deplete all funds) of the working cash fund must still be transferred to the education fund only.

Comment [KAS1]: The policy is unchanged. Cross References and a footnote is added to discuss the logistics of the Local Government Travel Expense Control Act (50 ILCS 150/, added by P.A. 99-604, eff. 1-1-17).

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 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/, added by P.A. 99-604, eff. 1-1-17) 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 Section 10-20.21 of the School Code [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 (Activity 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 [exhibit 4:55-E, Cardholder's Statement Affirming Familiarity with Requirements for Using District Credit and/or Procurement Cards](#).

Operational Services

Purchases and Contracts ¹

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

Standards for Purchasing and Contracting

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

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

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

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

1. Supplies, materials, or work involving an expenditure in excess of \$25,000 must comply with the State law bidding procedure, 105 ILCS 5/10-20.21, unless specifically exempted.⁴
2. Construction, lease, or purchase of school buildings must comply with State law and Board policy 4:150, *Facility Management and Building Programs*.
3. Guaranteed energy savings must comply with 105 ILCS 5/19b-1 et seq.
4. Third party non-instructional services must comply with 105 ILCS 5/10-22.34c.⁵

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 10-20.21 contains bidding plus other requirements. Other laws also govern district contracts. For example, the Prevailing Wage Act requires, among other things, that a district specify in all contracts for public works that the prevailing wage rate must be paid (820 ILCS 130/). When a district awards work to a contractor without a public bid, contract, or project specification, the district must provide the contractor with written notice on the purchase order or a separate document indicating that not less than the prevailing rate of wages shall be paid to all laborers, workers, and mechanics performing work on the project. In addition, the district must notify all contractors of any rate changes by the Dept. of Labor. The law allows a district to discharge this duty by including the following language in all contracts: "Any prevailing rate of wages as they are revised by the Dept. of Labor shall apply to this contract. You are notified that any rate changes to the prevailing wage rate are available on the Dept.'s official website." (820 ILCS 130/4, ~~amended by P.A. 97-964, eff. 1-1-13~~, and see 4:60-E, *Notice to Contractors* for sample language).

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

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

⁴ See 4:60-AP1, *Purchases*, for bidding exemptions and the requirements for electronic bid opening. A board may set a lower bidding threshold by policy but should first seek its attorney's advice because such action may expand a board's vulnerability to a bidding challenge.

5. Goods and services that are intended to generate revenue and other remunerations for the District in excess of \$1,000, including without limitation vending machine contracts, sports and other attire, class rings, and photographic services, must comply with 105 ILCS 5/10-20.21. The Superintendent or designee shall keep a record of: (1) each vendor, product, or service provided, (2) the actual net revenue and non-monetary remuneration from each contract or agreement, and (3) how the revenue was used and to whom the non-monetary remuneration was distributed. The Superintendent or designee shall report this information to the Board by completing the necessary forms that must be attached to the District's annual budget. ⁶

6. Any contract to purchase food with a bidder or offeror must comply with 105 ILCS 5/10-20.21(b-10).⁷

~~6-7.~~ The purchase of paper and paper products must comply with 105 ILCS 5/10-20.19c and Board policy 4:70, *Resource Conservation*. ⁸

~~7-8.~~ Each contractor with the District is bound by each of the following:

- a. In accordance with 105 ILCS 5/10-21.9(f): (1) prohibit any of its employees who is or was found guilty of a criminal offense listed in 105 ILCS 5/10-21.9(c) and 5/21B-80(c)⁹ to have direct, daily contact at a District school or school-related activity with one or more student(s); (2) prohibits any of the contractor's employees from having direct, daily contact with one or more students if the employee was found guilty of any offense in 5/21B-80(b) (certain drug offenses) until seven years following the end of the employee's sentence for the criminal offense;¹⁰ and ~~(23)~~ require each of its employees who will have direct, daily contact with student(s) to cooperate during the District's fingerprint-based criminal history records check on him or her. ¹¹
- b. In accordance with 105 ILCS 5/24-5: (1) concerning each employee who begins providing services in the District after June 16, 2014, provide the District with evidence of physical fitness to perform the duties assigned and freedom from communicable disease if the employee will have direct, daily contact with one or more student(s); and (2) require any new or existing employee who has and will have direct, daily contact with one or more student(s) to complete additional health examinations as required by the District and be subject to additional health examinations, including tuberculosis

⁵ Concerning collective bargaining requirements, see *McLean Co. Unit Dist. 5 v. AFSCME & IELRB*, 2014 Ill.App. (4th), No. 4-13-0294 (6-4-2014)(good faith bargaining on the decision to subcontract requires notice of the consideration of the subcontract before it is finalized; meeting with the union to provide an opportunity to discuss and explain the decision; providing information to the union; and giving consideration to any counterproposal the union makes).

⁶ 105 ILCS 5/10-20.21(b-5).

⁷ 105 ILCS 5/10-20.21(b-10), added by P.A. 99-552.

⁸ 105 ILCS 5/10-20.19c.

⁹ 105 ILCS 5/21B-80, amended by P.A. 99-667.

¹⁰ id.

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

screening, as required by the Illinois Department of Public Health rules or order of a local health official. ¹²

The Superintendent or designee shall: (1) execute the reporting and website posting mandates in State law concerning District contracts, and (2) monitor the discharge of contracts, contractors' performances, and the quality and value of services or products being provided. ¹³

LEGAL REF.: 105 ILCS 5/10-20.19c, 5/10-20.21, 5/10-21.9, 5/10-22.34c, 5/19b-1 et seq., and 5/24-5.
820 ILCS 130/.

CROSS REF.: 2:100 (Board Member Conflict of Interest), 4:70 (Resource Conservation), 4:150 (Facility Management and Building Programs), 4:175 (Convicted Child Sex Offender; Criminal Background Check and/or Screening; Notifications)

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

¹² P.A. 98-716, effective 7-16-~~20~~14, expanded the scope of 105 ILCS 5/24-5 by adding a definition of *employee* that includes contractors' employees for whom a criminal history records check is required. As of Aug. 2014, the Ill. Dept. of Public Health does not require school employees to be screened for tuberculosis other than workers in child day care and preschool settings (77 Ill.Admin.Code §696.140(a)(3)). Before requesting a contractor's employee for a health examination, contact the board attorney concerning this action's legality under other personnel laws, including the Americans with Disabilities Act.

¹³ This is an optional provision. The numerous reporting and website posting mandates are in 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. As an alternative to the policy's default language, a board may insert the underscored:

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

Comment [KAS1]: Policy is unchanged. Footnotes are updated in response to P.A. 99-794, eff. 1-1-17 (allowing property constructed or renovated by students as part of a curricular program to be sold through the services of a licensed real estate broker subject to certain requirements).

Operational Services

Accounting and Audits 1

The School District's accounting and audit services shall comply with the *Requirements for Accounting, Budgeting, Financial Reporting, and Auditing*, as adopted by the Illinois State Board of Education, State and federal laws and regulations, and generally accepted accounting principles. Determination of liabilities and assets, prioritization of expenditures of governmental funds, and provisions for accounting disclosures shall be made in accordance with government accounting standards as directed by the auditor designated by the Board. The Superintendent, in addition to other assigned financial responsibilities, shall report monthly on the District's financial performance, both income and expense, in relation to the financial plan represented in the budget.

Annual Audit 2

At the close of each fiscal year, the Superintendent shall arrange an audit of the District funds, accounts, statements, and other financial matters. The audit shall be performed by an independent certified public accountant designated by the Board and be conducted in conformance with prescribed standards and legal requirements. A complete and detailed written audit report shall be provided to each Board member and to the Superintendent. The Superintendent shall annually, on or before October 15, submit an original and one copy of the audit to the Regional Superintendent of Schools.

Annual Financial Report 3

The Superintendent or designee shall annually prepare and submit the Annual Financial Report on a timely basis using the form adopted by the Illinois State Board of Education. The Superintendent shall review and discuss the Annual Financial Report with the Board before it is submitted.

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

1 State or federal law controls this policy's content. A board policy or resolution is required concerning revolving funds and petty cash (23 Ill.Admin.Code §100.70). This policy is intended to facilitate the board's fiscal oversight role. The last sentence of the first paragraph should be modified to align with local conditions. The *Requirements for Accounting, Budgeting, Financial Reporting, and Auditing* replaced 23 Ill.Admin.Code, Part 110 *Program Accounting Manual* and 23 Ill.Admin Code Part 125 *Student Activity Funds and Convenience Accounts*. The *Requirements for Accounting, Budgeting, Financial Reporting, and Auditing* is at 23 Ill.Admin.Code Part 100.

2 Audit requirements are found in 105 ILCS 5/3-7 and 5/3-15.1, and 23 Ill.Admin.Code §100.110. The federal Single Audit Act adds audit requirements for federal programs (31 U.S.C. §7501 *et seq.*).

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent of Schools" with "appropriate Intermediate Service Center." Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.

The following optional sentence establishes an audit committee: "The Board will annually establish an audit committee to help the Board select an external auditor, confer with the auditor regarding the audit's scope, and oversee the audit process." **Note:** ~~all~~ **All** board committees are subject to the Open Meetings Act.

The following optional sentence establishes a competitive process for selecting the external auditor; it prevents a long-term relationship with an auditor and reduces the possibility of audits being too routine or friendly: "The Board will annually advertise a request for proposals to perform the external audit." Substitute "periodically" for "annually" if desired.

3 Requirements for the annual financial report are found in 105 ILCS 5/2-3.27 and 5/3-15.1; 23 Ill.Admin.Code §100.100. The last sentence of this section should be modified to align with local conditions.

Inventories 4

The Superintendent or designee is responsible for establishing and maintaining accurate inventory records. The inventory record of supplies and equipment shall include a description of each item, quantity, location, purchase date, and cost or estimated replacement cost.

Disposition of District Property 5

The Superintendent or designee shall notify the Board, as necessary, of the following so that the Board may consider its disposition: (1) District personal property (property other than buildings and land) that is no longer needed for school purposes, and (2) school site, building, or other real estate that is unnecessary, unsuitable, or inconvenient. Notwithstanding the above, the Superintendent or designee may unilaterally dispose of personal property of a diminutive value.

Taxable Fringe Benefits 6

The Superintendent or designee shall: (1) require that all use of District property or equipment by employees is for the District's convenience and best interests unless it is a Board-approved fringe benefit, and (2) ensure compliance with the Internal Revenue Service regulations regarding when to report an employee's personal use of District property or equipment as taxable compensation.

Controls for Revolving Funds and Petty Cash 7

Revolving funds and the petty cash system are established in Board policy 4:50, *Payment Procedures*. The Superintendent shall: (1) designate a custodian for each revolving fund and petty cash fund, (2) obtain a bond for each fund custodian, and (3) maintain the funds in compliance with this policy, State law, and Illinois State Board of Education rules. A check for the petty cash fund may be drawn payable to the designated petty cash custodian. Bank accounts for revolving funds are limited to a maximum balance of \$500.00. All expenditures from these bank accounts must be directly related to the purpose for which the account was established and supported with documentation, including signed invoices or receipts. All deposits into these bank accounts must be accompanied with a clear description of their intended purpose. The Superintendent or designee shall include checks written to reimburse revolving funds on the Board's monthly listing of bills indicating the recipient and including an explanation.

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

4 The Illinois Program Accounting Manual (IPAM) was repealed and replaced with the *Requirements for Accounting, Budgeting, Financial Reporting, and Auditing*. While these new rules contain much of the IPAM information, the information about inventories was not included. That information is still useful and may be found at www.isbe.state.il.us/sfms/pdf/ipam.pdf. The last sentence of this section should be modified to align with local conditions.

5 The requirements in this section are specified in 105 ILCS 5/5-22, amended by P.A. 99-794, eff. 1-1-17 (allowing property constructed or renovated by students as part of a curricular program to be sold through the services of a licensed real estate broker subject to certain requirements) and 5/10-22.8. A board that desires to act on the disposition of property having any value should use the following alternative to this section's ~~the~~ last sentence: "Notwithstanding the above, the Superintendent or designee may unilaterally dispose of worthless personal property."

6 The intent of this optional section is twofold: (1) to control personal use of district property and equipment, and (2) to ensure compliance with IRS rules. As to the first point, allowing personal use of district property or equipment is arguably prohibited by the Ill. Constitution, Art. VIII, Sec 1 which states: "Public funds, property or credit shall be used only for public purposes." As to the second point, any fringe benefit an employer provides is taxable and must be included in the recipient's pay unless the law specifically excludes it. See Publication 15-B (2008), *Employer's Tax Guide to Fringe Benefits*, www.irs.gov/pub/irs-pdf/p15b.pdf.

7 105 ILCS 5/10-20.19; 23 Ill.Admin.Code §100.70. This paragraph's contents are mandatory, except for the \$500 cap on the maximum balance of revolving funds. The cap amount may be changed or the following alternative used: "Each revolving fund shall be maintained in a bank that has been approved by the Board and established in an amount approved by the Superintendent consistent with the annual budget."

Control Requirements for Checks ⁸

The Board must approve all bank accounts opened or established in the District's or a District school's name or with the District's Federal Employer Identification Number. All checks issued by the School District must be signed by either the Treasurer or Board President, except that checks from an account containing student activity funds and revolving accounts may be signed by the respective account custodian.

Internal Controls ⁹

The Superintendent is primarily responsible for establishing and implementing a system of internal controls for safeguarding the District's financial condition; the Board, however, will oversee these safeguards. The control objectives are to ensure efficient business and financial practices, reliable financial reporting, and compliance with State law and Board policies, and to prevent losses from fraud, employee error, misrepresentation by third parties, or imprudent employee action.

The Superintendent or designee shall annually audit the District's financial and business operations for compliance with established internal controls and provide the results to the Board. The Board may from time-to-time engage a third party to audit internal controls in addition to the annual audit.

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

⁸ This section is largely up to the local board's discretion; additional controls may be added. The following alternative to the second sentence will mandate two signatories for checks:

Two of the following individuals, the Treasurer, Board President, and/or Board Vice-President, shall sign all checks issued by the School District, except that checks from an account containing student activity funds and revolving accounts may be signed by the respective account custodian.

A board must comply with State law requirements concerning the use of facsimile or electronic signatures on checks. The Secretary of State, Index Department, maintains certified manual signatures of officers authorized to sign checks (Uniform Facsimile Signature of Public Officials Act, 30 ILCS 320/). Electronic records and signatures are governed by the Electronic Commerce Security Act (5 ILCS 175/5). Attorneys disagree about the applicability of these laws to school districts.

⁹ This section is largely up to the local board's discretion. The annual audit must include a "review and testing of the internal control structure" (23 Ill.Admin.Code §100.110). This review's limited scope means that boards should not rely on it to reveal uncontrolled financial risks. The board's responsibility is to establish policy to safeguard the district's financial condition. Indeed, the oath of office includes this promise: "I shall respect taxpayer interests by serving as a faithful protector of the school district's assets." In this sample policy, the board sets the control objectives and the superintendent is responsible for developing an internal controls system.

Boards that wish to take a larger oversight role regarding internal controls may list the numbered sentences in the IASB sample administrative procedure 4:80-AP, *Checklist for Internal Controls*, as required inclusions in the superintendent's program for internal controls. This alternative, for insertion at the end of this section's first paragraph, follows:

The District's system of internal controls shall include the following:

1. All financial transactions must be properly authorized and documented.
2. Financial records and data must be accurate and complete.
3. Accounts payable must be accurate and punctual.
4. District assets must be protected from loss or misuse.
5. Incompatible duties should be segregated, if possible.
6. Accounting records must be periodically reconciled.
7. Equipment and supplies must be safeguarded.
8. Staff members with financial or business responsibilities must be properly trained and supervised, and must perform their responsibilities with utmost care and competence.
9. Any unnecessary weaknesses or financial risks must be promptly corrected.

LEGAL REF.: 105 ILCS 5/2-3.27, 5/2-3.28, 5/3-7, 5/3-15.1, 5/5-22, 5/10-21.4, 5/10-20.19, 5/10-22.8, and 5/17-1 et seq.
23 Ill.Admin.Code Part 100.

CROSS REF.: 4:10 (Fiscal and Business Management), 4:50 (Payment Procedures), 4:55 (Use of Credit and Procurement Cards), 4:90 (Activity Funds)

Comment [KAS1]: The policy, Legal References, Cross References, and footnotes are updated to implement ESSA requirements (20 U.S.C. §6312(c)(5)(B)) (foster care student transportation).

Operational Services

Transportation ¹

The District shall provide free transportation for any student in the District who resides: (1) at a distance of one and one-half miles or more from his or her assigned school, unless the School Board has certified to the Illinois State Board of Education that adequate public transportation is available,² or (2) within one and one-half miles from his or her assigned school where walking to school or to a pick-up point or bus stop would constitute a serious hazard due to vehicular traffic or rail crossing, and adequate public transportation is not available.³ A student's parent(s)/guardian(s) may file a petition with the Board requesting transportation due to the existence of a serious safety hazard.⁴ Free transportation service and vehicle adaptation is provided for a special education student if included in the student's individualized educational program.⁵ Non-public school students shall be transported in accordance with State law.⁶ Homeless students shall be transported in accordance with Section 45/1-

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 5/29-1 et seq. and 23 Ill.Admin.Code Part 120). **Important: The board of a district that does *not* provide transportation must amend this policy.** F/n 2 discusses when districts must provide free transportation. Please contact an IASB Policy Consultant for *gratis* help customizing this policy. You may also need to consult the board attorney.

A district that chooses to consider locations other than individual students' residences as pick-up and drop-off locations must adopt a policy establishing this practice to receive State reimbursement (23 Ill.Admin.Code §120.30(a)(1)(B)).

Each district must have a pre-trip and post-trip inspection policy (625 ILCS 5/12-816(a)). An ISBE rule requires boards to "institute policies and practices that promote the safety and well-being of school bus passengers," (23 Ill.Admin.Code §1.510(g)). To comply with these requirements, this policy lists relevant administrative procedures at the end.

The policy does not address an *automatic traffic enforcement* system which may be enacted by a municipality or county. An *automatic traffic law enforcement system* is a device that senses and records a motor vehicle that illegally fails to stop for a school bus (625 ILCS 5/11-208.9). Each school board within that municipality or county's jurisdiction may approve the system's implementation. The board is then required to enter into an intergovernmental agreement with the municipality or county and contract with vendors for the system's installation, maintenance, and operation. Each applicable school bus must be posted with a sign indicating that it is being monitored by an automated traffic law enforcement system. The proceeds from a school district's automated traffic law enforcement system's fines shall be divided equally between the school district and the municipality or county administering the automated traffic law enforcement system.

² Only the following districts must provide free transportation as described in the sample policy: community consolidated districts, community unit districts, consolidated districts, consolidated high school districts, and combined school districts if the combined district includes any district that was previously required to provide transportation (105 ILCS 5/29-3 and 23 Ill.Admin.Code §1.510(a)). Districts that are not required to provide free transportation may do so (id.). To qualify for State reimbursement, districts electing to provide transportation when they are not required to do so must afford the same service to all students in that same situation (23 Ill.Admin.Code §1.510(b)). Districts may provide transportation within ~~4-4~~one and one-half miles and may charge for such transportation (105 ILCS 5/29-2).

Optional provision: (105 ILCS 5/29-3.1)

The District may provide transportation to and from school-sponsored activities and may charge for such transportation.

³ 105 ILCS 5/29-3 and 23 Ill.Admin.Code §1.510.

⁴ Required by 105 ILCS 5/29-3. Another statute provides a process for *qualifying students* to seek reimbursement from ISBE for *qualified transportation expenses* (105 ILCS 5/29-5.2; 23 Ill.Admin.Code §120.240). 23 Ill.Admin.Code §120.230 requires, among other things, that each attendance center designate a representative to assist parents/guardians with this process. This process does not need to be in board policy and is not covered herein.

⁵ 34 C.F.R. §300.34 and 23 Ill.Admin.Code §226.750.

⁶ 105 ILCS 5/29-3.2 and 5/29-4.

15 of the Education for Homeless Children Act.⁷ Foster care students shall be transported in accordance with Section 6312(c)(5)(B) of the Elementary and Secondary Education Act. ⁸

Comment [MB2]: New obligation per ESEA.

If a student is at a location within the District, other than his or her residence, for child care purposes at the time for transportation to and/or from school, that location may be considered for purposes of determining the ~~1/2~~ one and one-half miles from the school attended. Unless the Superintendent or designee establishes new routes, pick-up and drop-off locations for students in day care must be along the District's regular routes. The District will not discriminate among types of locations where day care is provided, which may include the premises of licensed providers, relatives' homes, or neighbors' homes.⁹

Bus schedules and routes shall be determined by the Superintendent or designee and shall be altered only with the Superintendent or designee's approval and direction. In setting the routes, the pick-up and discharge points should be as safe for students as possible.¹⁰

No school employee may transport students in school or private vehicles unless authorized by the administration. ¹¹

Comment [MB3]: Policies referenced in f/n 11 have been reordered to consistently be listed in numerical order. Policy title of 5:100 has also been updated.

Every vehicle regularly used for the transportation of students must pass safety inspections in accordance with State law and Illinois Department of Transportation regulations.¹² The strobe light

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⁷ 105 ILCS 45/. State law implements the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.

⁸ Required if the district receives Title I funds (20 U.S.C. §6312(c)(5)(B)). It requires the district to collaborate with the State or local child welfare agency to, by December 10, 2016, develop and implement clear written procedures governing how transportation to maintain children in foster care in the school of origin (when in their best interest) will be provided, arranged, and funded for the duration of their time in foster care. The U.S. Departments of Education and Health and Human Services, in *Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care* (June 23, 2016), opine that ESEA requirements apply to students who meet the definition of *foster care* set forth at 45 C.F.R. §1355.20(a):

Foster care means 24-hour substitute care for children placed away from their parents or guardians and for whom the title IV-E agency has placement and care responsibility. This includes, but is not limited to, placements in foster family homes, foster homes of relatives, group homes, emergency shelters, residential facilities, child care institutions, and pre-adoptive homes. A child is in foster care in accordance with this definition regardless of whether the foster care facility is licensed and payments are made by the State, Tribal or local agency for the care of the child, whether adoption subsidy payments are being made prior to the finalization of an adoption, or whether there is Federal matching of any payments that are made.

Effective December 10, 2016, ESEA foster care transportation requirements also apply to students *awaiting* foster care placement.

105 ILCS 5/10-20.58, added by P.A. 99-781 permits school boards to appoint at least one employee to act as a liaison to facilitate the enrollment and transfer of records of students in the legal custody of the Ill. Department of Children and Family Services (DCFS) when enrolling in or changing schools. Liaison responsibilities may include, among other things, working with DCFS to help students maintain their school placement, if appropriate.

⁹ This paragraph should be deleted if a district will not seek State reimbursement for transportation to and from locations other than individual students' residences. As a condition for receiving State reimbursement, an ISBE rule requires boards to have a policy with the provisions in this paragraph (23 Ill.Admin.Code §120.30(a)(1)(B)). This rule also contains the non-discrimination language.

¹⁰ The paragraph is optional. As an alternative, a board may state that pick-up and discharge points "should be as safe and convenient as possible."

¹¹ Optional. This presents an opportunity for each board to discuss this issue with the superintendent and direct the superintendent to include it in the curriculum for the required in-service on educator ethics, teacher-student conduct, and school employee-student conduct for all personnel (105 ILCS 5/10-22.39). See ~~5:120, *Ethics and Conduct* (f/n 2), and 5:100 *Staff Development Program* (f/n 3), and 5:120, *Ethics and Conduct* (f/n 2)~~, for more detailed discussions. Include policies 5:100, *Staff Development Program* and 5:120, *Ethics and Conduct*, in the cross references when this sentence is used.

on a school bus may be illuminated only when the bus is actually being used as a school bus and (1) is stopping or stopped for loading or discharging students on a highway outside an urban area, or (2) is bearing one or more students.¹³ The Superintendent shall implement procedures in accordance with State law for accepting comment calls about school bus driving.¹⁴

All contracts for charter bus services must contain the clause prescribed by State law regarding criminal background checks for bus drivers.¹⁵

¹² 625 ILCS 5/13-109. The vehicle and other requirements for transporting students to and from interscholastic or school-sponsored activities, including curriculum-related activities, are found in 105 ILCS 5/29-6.3 and 625 ILCS 5/11-1414.1. These statutes also contain requirements for the use of multi-function school activity buses (defined at 625 ILCS 5/1-148.3a-5). The legislature frequently amends these statutes, along with many transportation laws; they should be double-checked before relying on them.

¹³ 625 ILCS 5/12-815. The statute, like the policy, identifies the conditions in which illuminating the strobe light is permissible instead of mandating when they must be illuminated.

¹⁴ 625 ILCS 5/12-821(b) requires districts that own school busses and multifunction school activity busses to establish procedures for accepting comment calls and responding to them. In accordance with good governance principles, this duty is delegated to the superintendent. For a sample procedure, see 4:110-AP2, *Bus Driver Communication Devices; Pre-Trip and Post-Trip Inspection; Bus Driving Comments*.

¹⁵ 105 ILCS 5/10-20.21a, requires all contracts for providing charter bus services to transport students to or from interscholastic athletic or interscholastic or school sponsored activities to contain clause (A) except that a contract with an out-of-state company may contain clause (B) or clause (A). The clause must be set forth in the contract's body in at least 12 points typeface and all upper case letters:

(A) "ALL OF THE CHARTER BUS DRIVERS WHO WILL BE PROVIDING SERVICES UNDER THIS CONTRACT HAVE, OR WILL HAVE BEFORE ANY SERVICES ARE PROVIDED:

(1) SUBMITTED THEIR FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT OF STATE POLICE. THESE FINGERPRINTS SHALL BE CHECKED AGAINST THE FINGERPRINT RECORDS NOW AND HEREAFTER FILED IN THE DEPARTMENT OF STATE POLICE AND FEDERAL BUREAU OF INVESTIGATION CRIMINAL HISTORY RECORDS DATABASES. THE FINGERPRINT CHECK HAS RESULTED IN A DETERMINATION THAT THEY HAVE NOT BEEN CONVICTED OF COMMITTING ANY OF THE OFFENSES SET FORTH IN SUBDIVISION (C-1)(4) OF SECTION 6-508 OF THE ILLINOIS VEHICLE CODE; AND

(2) DEMONSTRATED PHYSICAL FITNESS TO OPERATE SCHOOL BUSES BY SUBMITTING THE RESULTS OF A MEDICAL EXAMINATION, INCLUDING TESTS FOR DRUG USE, TO A STATE REGULATORY AGENCY."

(B) "NOT ALL OF THE CHARTER BUS DRIVERS WHO WILL BE PROVIDING SERVICES UNDER THIS CONTRACT HAVE, OR WILL HAVE BEFORE ANY SERVICES ARE PROVIDED:

(1) SUBMITTED THEIR FINGERPRINTS TO THE DEPARTMENT OF STATE POLICE IN THE FORM AND MANNER PRESCRIBED BY THE DEPARTMENT OF STATE POLICE. THESE FINGERPRINTS SHALL BE CHECKED AGAINST THE FINGERPRINT RECORDS NOW AND HEREAFTER FILED IN THE DEPARTMENT OF STATE POLICE AND FEDERAL BUREAU OF INVESTIGATION CRIMINAL HISTORY RECORDS DATABASES. THE FINGERPRINT CHECK HAS RESULTED IN A DETERMINATION THAT THEY HAVE NOT BEEN CONVICTED OF COMMITTING ANY OF THE OFFENSES SET FORTH IN SUBDIVISION (C-1)(4) OF SECTION 6-508 OF THE ILLINOIS VEHICLE CODE; AND

(2) DEMONSTRATED PHYSICAL FITNESS TO OPERATE SCHOOL BUSES BY SUBMITTING THE RESULTS OF A MEDICAL EXAMINATION, INCLUDING TESTS FOR DRUG USE, TO A STATE REGULATORY AGENCY."

Pre-Trip and Post-Trip Vehicle Inspection¹⁶

The Superintendent or designee shall develop and implement a pre-trip and post-trip inspection procedure to ensure that the school bus driver: (1) tests the two-way radio or cellular radio telecommunication device and ensures that it is functioning properly before the bus is operated, and (2) walks to the rear of the bus before leaving the bus at the end of each route, work shift, or work day, to check the bus for children or other passengers in the bus.

- LEGAL REF.: [Elementary and Secondary Education Act, 20 U.S.C. §6312\(c\)\(5\)\(B\)](#),
[McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.](#)
105 ILCS 5/10-22.22 and 5/29-1 et seq.
105 ILCS 45/1-15.
625 ILCS 5/1-148.3a-5, 5/1-182, 5/11-1414.1, 5/12-813, 5/12-813.1, 5/12-815,
5/12-816, 5/12-821, and 5/13-109.
23 Ill.Admin.Code §§1.510 and 226.750; Part 120.
92 Ill.Admin.Code §440-3.
- CROSS REF.: 4:170 (Safety), 5:100 (Staff Development [Program](#)), 5:120 (Ethics and Conduct),
5:280 (Educational Support Personnel - Duties and Qualifications), 6:140
(Education of Homeless Children), [6:170 \(Title I Programs\)](#), 7:220 (Bus
Conduct)
- ADMIN. PROC.: 4:110-AP2 (Bus Driver Communication Devices; Pre-Trip and Post-Trip
Inspection; Bus Driving Comments), 4:110-AP3 (School Bus Safety Rules),
4:110-E (Emergency Medical Information for Students Having Special Needs or
Medical Conditions Who Ride School Buses), 6:140-AP (Education of Homeless
Children)

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

¹⁶ 625 ILCS 5/12-816(a) requires school districts to have a school bus pre- and post-trip inspection policy with the components as contained in this policy. See also 23 Ill.Admin.Code §1.510(i)(3) and 92 Ill.Admin.Code §~~440-3~~[458.1030](#). For a sample procedure, see 4:110-AP2, *Bus Driver Communication Devices; Pre-Trip and Post-Trip Inspection; Bus Driving Comments*. School district contracts with a private sector school bus company must require the company to have a pre- and post-trip inspection policy that is equivalent to this section of the policy (625 ILCS 5/12-816(b)).

Each school bus must contain an operating two-way radio or cellular radio telecommunication device while the school bus driver is in possession of a school bus (625 ILCS 5/12-813.1(e)). “Cellular radio telecommunication device” means a device capable of sending or receiving telephone communications without an access line for service and which requires the operator to dial numbers manually; it does not include citizens band radios or citizens band radio hybrids (625 ILCS 5/12-813.1(a)). The two-way radio or cellular radio telecommunication device must be turned on and adjusted in a manner that would alert the driver of an incoming communication request (625 ILCS 5/12-813.1(e)). A school bus driver may not operate a school bus while using a cellular radio telecommunication device except in the following situations: (1) in an emergency situation to communicate with an emergency response operator; a hospital; a physician’s office or health clinic; an ambulance service; a fire department, fire district, or fire company; or a police department; (2) in the event of a “mechanical breakdown or other mechanical problem;” (3) to communicate with school authorities about bus operation or the safety of a passenger on the bus; and (4) when the bus is parked (625 ILCS 5/12-813.1(e)). However under no circumstances may the cellular radio telecommunication device be used for anything else including personal use (625 ILCS 5/12-813.1(c)(2)).

Operational Services

Free and Reduced-Price Food Services ¹

Notice

The Superintendent shall be responsible for implementing the District's free and reduced-price food services policy and all applicable programs. ² ³

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

¹ State or federal law controls this policy's content. A policy on eligibility for free and reduced-price meals is required by 7 C.F.R. §245.10 for districts participating in the National School Lunch or Breakfast Programs. [See f/n 2 below for more information about programs.](#)

² Every public school must have a free lunch program (School Breakfast and Lunch Program Act, 105 ILCS 125/4). Each school where at least 40% or more of the students are eligible for free or reduced-price lunches must operate a school breakfast program (Childhood Hunger Relief Act, 105 ILCS 126/15). A school district may opt-out if the expense reimbursement would not fully cover the costs of implementing and operating the breakfast program. To do so, the district must petition its regional superintendent by February 15. The regional superintendent, after a public hearing, and by March 15, informs the district of his or her decision. If the regional superintendent does not grant an exemption, the district must implement a school breakfast program by the first student attendance day of the next school year. However, the school district or a resident of the school district may appeal the regional superintendent's decision to the State Superintendent of Education.

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

105 ILCS 126/16, added by P.A. 99-850, eff. 1-1-17, requires qualifying school districts to implement and operate a breakfast after the bell program by the first school day of the 2017-2018 academic year in each of its school buildings where:

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

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

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

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

- i) Delivery of school breakfasts effectively, as defined by 70% or more of free or reduced-price eligible students participating in the School Breakfast Program, or

Eligibility Criteria and Selection of Children ⁴

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

Notification ⁵

At the beginning of each school year, by letter, the District shall notify students and their parents/guardians of: (1) eligibility requirements for free and reduced-price food service; (2) the application process; (3) the name and telephone number of a contact person for the program;⁶ and (4) other information required by federal law. The Superintendent shall provide the same information to: (1) informational media, the local unemployment office, and any major area employers contemplating layoffs;⁷ and (2) the District's website (if applicable), all school newsletters, or students' registration materials.⁸ Parents/guardians enrolling a child in the District for the first time, any time during the school year, shall receive the eligibility information.

Nondiscrimination Assurance ⁹

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

ii) Its reimbursement for the program would not fully cover its implementation and operation costs due to district-specific circumstances (a cost analysis must be submitted to the school board, the board must hold a public hearing, and the board must pass a resolution that the district cannot afford to operate a breakfast after the bell program).

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

³ 7 C.F.R. §245.10(a)(1).

⁴ 7 C.F.R. §245.3; see also the subhead titled Household Eligibility Criteria on State Board of Education's website at: www.isbe.net/nutrition/htmls/forms_sbn.htm#hej. If a child transfers from one district school to another district school, his or her eligibility for free or reduced price meals or for free milk, if previously established, is honored by the receiving school.

Beginning in the year 2011-2012, the U.S. Depts. of Agriculture and Education implemented a new claiming option for providing reimbursements to school districts that provide free breakfasts and lunches to all students in schools with significantly economically disadvantaged populations. It is called the Community Eligibility ~~Provision Option~~ (CEPO). For more information about qualifying for and claiming through this reimbursement method, see www.isbe.net/e-bulletins/pdf/02-12.pdf.

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

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

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

⁵ 7 C.F.R. §245.5; 23 Ill.Admin.Code §305.10(c). Any changes in the eligibility criteria must be announced according to 7 C.F.R. §245.5(b).

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

⁷ 7 C.F.R. §245.5.

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

⁹ 7 C.F.R. §§245.8 and 245.10(a)(4).

Appeal 10

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

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

The Superintendent shall keep on file for a period of ~~three~~ 3-years a record of any appeals made and the hearing record. The District shall also maintain accurate and complete records showing the data and method used to determine the number of eligible students served free and reduced-price food services. These records shall be maintained for ~~three~~ 3-years.

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

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.
10 7 C.F.R. §245.7. The minimal hearing requirements are also found there.

Comment [KAS1]: Policy is unchanged. Footnotes are updated to incorporate: (1) the Environmental Barriers Act, P.A. 99-582, eff. 1-1-17; (2) interfund transfers, P.A. 99-713; and (3) amendments to Health/Life and Safety Code for Public Schools at 23 Ill.Admin.Code Part 180, amended at 40 Ill. Reg. 3059.

Operational Services

Facility Management and Building Programs ¹

The Superintendent shall manage the District's facilities and grounds as well as facility construction and building programs in accordance with the law, the standards set forth in this policy, and other applicable School Board policies. The Superintendent or designee shall facilitate: (1) inspections of schools by the Regional Superintendent and State Fire Marshal or designee, and (2) review of plans and specifications for future construction or alterations of a school if requested by the relevant municipality, county (if applicable), or fire protection district. ²

Standards for Managing Buildings and Grounds

All District buildings and grounds shall be adequately maintained in order to provide an appropriate, safe, and energy efficient physical environment for learning and teaching. The Superintendent or designee shall provide the Board with periodic reports on maintenance data and projected maintenance needs that include cost analysis. Prior Board approval is needed for all renovations or permanent alterations to buildings or grounds when the total cost will exceed \$12,500, including the cost equivalent of staff time.³ This policy is not intended to discourage efforts to improve the appearance of buildings or grounds that are consistent with the designated use of those buildings and grounds.

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

¹ Each district with a school having 50 or more students must have a green school cleaning policy (Green Cleaning School Act, 105 ILCS 140/). IASB sample policy 4:160, *Environmental Quality of Buildings and Grounds*, fulfills the requirement to have a procedure on compliance with the Chemical Safety Act² (105 ILCS 5/10-20.49). Many other State and federal laws control facility management and building programs. Good subjects for administrative procedures include management of custodial services, security, ~~and~~ green cleaning, among others.

The federal rules implementing the Americans with Disabilities Act (ADA) prohibit discrimination on the basis of disability in services and facilities (28 C.F.R. Parts 35 and 36). The 2010 ADA Standards for Accessible Design (28 C.F.R. Part 36, Appendix) are available from a link on the ADA home page, www.ada.gov/. Consult the board attorney about how these standards apply to alterations and new construction.

The Prevailing Wage Act is generally applicable to all construction projects (820 ILCS 130/). It requires, among other things, that: (1) all workers on a public works project be paid no less than the prevailing hourly rate (~~820 ILCS 130/1~~), (2) the district specify in all public works contracts that the prevailing rate must be paid (~~820 ILCS 130/4(a-1)~~), and (3) all contractors must submit certain employment records to the district and the district must keep these records as required by law (820 ILCS 130/5, ~~amended by P.A.s 98-328 and 98-482~~).

² 105 ILCS 5/3-14.20 and 5/3-14.21.

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." ~~The Regional Office of Education for Suburban Cook County was abolished and its duties and powers transferred to the Intermediate Service Center for the area by P.A. 96-893.~~

³ This provision is optional and the amount may be changed. The \$12,500 spending limit is one-half of the bidding threshold for purchases or contracts (105 ILCS 5/10-20.21). This provision's intent is to ensure that the board is kept informed about significant renovations and permanent alterations. A board should discuss this provision with its superintendent before including it in the policy.

Standards for Green Cleaning 4

For each District school with 50 or more students, the Superintendent or designee shall establish and supervise a green cleaning program that complies with the guidelines established by the Illinois Green Government Coordinating Council.

Standards for Facility Construction and Building Programs 5

As appropriate, the Board will authorize a comprehensive study to determine the need for facility construction and expansion. On an annual basis, the Superintendent or designee shall provide the Board with projected facility needs, enrollment trends, and other data impacting facility use. Board approval is needed for all new facility construction and expansion.

When making decisions pertaining to design and construction of school facilities, the Board will confer with members of the staff and community, the Illinois State Board of Education, and educational and architectural consultants, as it deems appropriate. The Board's facility goals are to:

1. Integrate facilities planning with other aspects of planning and goal-setting.
2. Base educational specifications for school buildings on identifiable student needs.

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

⁴ Required by the Green Cleaning School Act (105 ILCS 140/) and Green Cleaning for Elementary and Secondary Schools (23 Ill.Admin.Code Part 2800). The ~~Guidelines and Specifications, established by the~~ Ill. Green Government Coordinating Council ~~established~~ Guidelines and Specifications, which state: "While not mandatory, schools should implement the practices set forth in the Recommendations section of these guidelines where applicable and appropriate. ~~and~~ schools may continue to use their current cleaning supplies, equipment and policies until ... such time as the supplies and equipment on hand as of May 9, 2008 are exhausted." See:

www.illinois.gov/gov/green/Documents/Illinois%20Green%20Cleaning%20Guidelines%20and%20Specifications.pdf
www.standingupforillinois.org/green/school_cleaning.php
www.standingupforillinois.org/uploads/20080122GCSAGuidelines.pdf

⁵ 105 ILCS 5/2-3.12 and 23 Ill.Admin.Code Part 180 contain the School building code and Health, Life and Safety Code for Public Schools, respectively. Among ~~its~~ mandates ~~is~~ are the decennial safety survey report (105 ILCS 5/2-31.2(b); 23 Ill.Admin.Code §180.310). After 1-1-2015, all "new school building construction" must include a storm shelter that meets or exceeds the ICC/NSSA Standard for the Design and Construction of Storm Shelters (ICC-500) published jointly by the International Code Council and the National Storm Shelter Association (105 ILCS 5/2-3.12(e-5); 23 Ill.Admin.Code §180.60(b)(3), amended at 40 Ill. Reg. 3059, P.A. 98-883, eff. 1-1-2015). Any facility project for which the design contract is executed after 7-1-16 must meet standards of the 2015 International Building Code and its subcodes (23 Ill.Admin.Code 180.60(a), amended at 40 Ill. Reg. 3059).

The Ill. Environmental Barriers Act (410 ILCS 25/) and the Ill. Accessibility Code (71 Ill.Admin.Code Part 400) ensure that "all applicable buildings and facilities in the State of Illinois, are ~~is~~ so designed, constructed, and/or altered to assure the safety and welfare of all members of society and to be readily accessible to, and usable by, environmentally limited persons," (71 Ill.Admin.Code §400.110). Note: The Ill. Environmental Barriers Act, as amended by P.A. 99-582, eff. 1-1-17, deleted the term environmentally limited person, which until then had been defined in 410 ILCS 25/3 as "a person with a disability or condition who is restricted in the use of the built environment." Press boxes constructed on school property ~~before 7-1-2009~~ do not have to comply with the Accessibility Code if the press boxes are in bleachers that have points of entry at only one level, and the aggregate area of the press box is no more than 500 square feet (105 ILCS 5/10-20.4651; 23 Ill.Admin.Code 180.60(b)(4), amended at 40 Ill. Reg. 3059).

A building intended for classroom or instructional use may be constructed only after voter approval at a referendum unless the building is: (1) leased by the district, or (2) purchased with funds from the sale or disposition of other buildings or structures, or with funds received as a grant under the School Construction Law or as a gift, provided that no funds (other than lease payments) are derived from the district's bonded indebtedness or its tax levy (105 ILCS 5/10-22.36).

A district may levy a tax for "fire prevention, safety, energy conservation, disabled accessibility, school security, and specified repair purposes," (105 ILCS 5/17-2.11, ~~amended by P.A. 98-26~~). An expedited process may be available in emergency situations (Id.). A board may, subject to certain notice requirements, transfer surplus life safety taxes and interest earnings on them to the Operations and Maintenance Fund for building repair work until June 30, 2016~~9~~ (Id., amended by P.A. 99-713).

The Green Buildings Act requires all new State-funded building construction and major renovation projects to meet specified environmental requirements (20 ILCS 3130/). Waivers may be granted by the Capital Development Board in certain situations (Id.). For environmental impact laws, see policy 4:160, *Environmental Quality of Buildings and Grounds*.

The inclusion and identification of the facility goals listed in the second paragraph are at the board's discretion.

3. Design buildings for sufficient flexibility to permit new or modified programs.
4. Design buildings for maximum potential for community use.
5. Meet or exceed all safety requirements.
6. Meet requirements on the accessibility of school facilities to disabled persons as specified in State and federal law.
7. Provide for low maintenance costs, energy efficiency, and minimal environmental impact.

Naming Buildings and Facilities ⁶

Recognizing that the name for a school building, facility, or ground or field reflects on its public image, the Board’s primary consideration will be to select a name that enhances the credibility and stature of the school or facility. Any request to name or rename an existing facility should be submitted to the Board.⁷ When a facility is to be named or renamed, the Board President will appoint a special committee to consider nominations and make a recommendation, along with supporting rationale, to the Board. The Board will make the final selection. The Superintendent or designee may name a room or designate some area on a school’s property in honor of an individual or group that has performed outstanding service to the school without using the process in this policy.

LEGAL REF.: 42 U.S.C. §12101 et seq.
 20 ILCS 3130/, Green Buildings Act.
 105 ILCS 5/2-3.12, 5/10-20.49, 5/10-22.36, 5/17-2.11, 140/, and 230/.
 410 ILCS 25/, Environmental Barriers Act.
 820 ILCS 130/, Prevailing Wage Act.
 23 Ill.Admin.Code Part 151, School Construction Program; Part 180, Health/Life Safety Code for Public Schools; and Part 2800, Green Cleaning for Elementary and Secondary Schools.
 71 Ill.Admin.Code Part 400, Ill. Accessibility Code.

CROSS REF.: 2:150 (Committees), 2:170 (Procurement of Architectural, Engineering, and Land Surveying Services), 4:60 (Purchases and Contracts), 8:70 (Accommodating Individuals with Disabilities)

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

⁶ This section is optional and its contents are at the board’s discretion.

⁷ The board may want to include criteria for the committee, in which case the following is an option:

1. The committee will encourage input from the community, staff members, and students.
2. Consideration will be given to names of local communities, neighborhoods, streets, landmarks, historical considerations, and individuals who have made a contribution to the District, community, State, or nation.
3. The name will not duplicate or cause confusion with the names of existing facilities in the District.

Comment [KAS1]: Policy is unchanged. Footnotes are updated for SB 100 effective date and fire safety inspection regulations at 23 Ill.Admin.Code § 180.300(b).

Operational Services

Safety 1

Safety and Security

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

1. An emergency operations plan(s) addressing prevention, preparation, response, and recovery for each school;³
2. Provisions for a coordinated effort with local law enforcement and fire officials, emergency medical services personnel, and the Board Attorney;
3. A school safety drill plan;
4. Instruction in safe bus riding practices;⁴ and
5. A clear, rapid, factual, and coordinated system of internal and external communication.

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

School Safety Drill Plan 6

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

¹ State law requires a policy on several topics in this policy (see f/n 7, 8 & 9) and otherwise controls this policy's content. Topics previously assigned to this code number were moved in May 2014 and placed in 4:100, *Insurance Management* and 4:175, *Convicted Child Sex Offender; Screening; Notifications*.

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

³ See administrative procedure 4:170-AP1, *Comprehensive Safety and Security Plan*. This procedure follows the recommendations in the "Guide for Developing High-Quality School Emergency Operations Plans," produced by a collaboration of federal agencies in 2013, available at rems.ed.gov/docs/REMS_K-12_Guide_508.pdf. The *Guide* informs schools what they *need* to do, not *what* to do. It recommends a process for developing, implementing, and continually refining a school emergency operations plan as well as a discussion of its form, function, and content.

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

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

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

⁶ Each of the listed drills is required by the School Safety Drill Act, 105 ILCS 128/. Each drill's requirements are comprehensively covered in 4:170-AP1, *Comprehensive Safety and Security Plan*. For information about documenting minimum compliance with the School Safety Drill Act, see www.isbe.net/safety/guide.htm.

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

1. Three school evacuation drills
2. One bus evacuation drill
3. One severe weather and shelter-in-place drill
4. One law enforcement drill

Automated External Defibrillator (AED) 7

The Superintendent or designee shall implement a written plan for responding to medical emergencies at the District's physical fitness facilities in accordance with the Fitness Facility Medical Emergency Preparedness Act. The plan shall provide for an automated external defibrillator (AED) to be available according to State law requirements. This policy does not create an obligation to use an AED nor is it intended to create any expectation that an AED will be present or a trained person will be present and/or able to use an AED.

Carbon Monoxide Alarms 8

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

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

105 ILCS 5/2-3.12 authorizes the Ill. State Fire Marshal or a qualified fire official to whom the Ill. State Fire Marshal has delegated his or her authority ~~fire officials~~ to conduct an annual fire safety inspection of each school building ~~routine fire safety checks~~, provided the inspection is coordinated with the regional superintendent. See also 105 ILCS 5/3-14.21(c) and 23 Ill.Admin.Code §180.300(b). To effectively implement this law and ensure the education of students in the district is not disturbed, school officials should discuss with the State Fire Marshal and regional superintendent whether written notice may be provided ~~is given~~ to the principal requesting to schedule a mutually agreed upon time. ~~No more than two routine inspections may be made in a calendar year.~~

⁷ Each indoor and outdoor physical fitness facility serving at least 100 individuals must "adopt and implement a written plan for responding to medical emergencies that occur at the facility during the time that the facility is open for use by its members or by the public." The facility must file the plan with the Ill. Dept. of Public Health. In addition, each indoor facility must have at least one AED on the premises, and each outdoor facility must house an AED in a building, if any, that is within 300 feet of the outdoor facility. See the statute and administrative rules for the other numerous mandates: 210 ILCS 74/ (Physical Fitness Facility Medical Emergency Preparedness Act); 77 Ill.Admin.Code Part 527. Also see 4:170-AP6, *Plan for Responding to a Medical Emergency at a Physical Fitness Facility with an AED*.

⁸ 105 ILCS 5/10-20.56, added by P.A. 99-470, ~~eff. 1-1-16~~. *Carbon monoxide detector* and *detector* mean a device having a sensor that responds to carbon monoxide gas and that is connected to an alarm control unit and approved in accordance with rules adopted by the Ill. State Fire Marshal. *Approved carbon monoxide alarm* or *alarm* means a carbon monoxide alarm that complies with all the requirements of the rules and regulations of the Ill. State Fire Marshal, bears the label of a nationally recognized testing laboratory, and complies with the most recent standards of the Underwriters Laboratories or the Canadian Standard Association (430 ILCS 135/5).

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

Soccer Goal Safety ⁹

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

Unsafe School Choice Option ¹⁰

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

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

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

Emergency Closing

The Superintendent is authorized to close school(s) in the event of hazardous weather or other emergency that threatens the safety of students, staff members, or school property. ¹¹

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

⁹ Include this section **only** if the school district owns and controls a movable soccer goal (Movable Soccer Goal Safety Act, a/k/a *Zach's Law*, 430 ILCS 145/). The Act requires: (1) organizations that own and control a movable soccer goal to create a soccer goal safety and education policy that outlines how the organization will specifically address the safety issues associated with movable soccer goals, and (2) the Ill. Dept. of Public Health to provide technical assistance materials, which are available at: www.idph.state.il.us/soccer-goal-safety/index.htm idph.illinois.gov/topics-services/prevention-wellness/injury-violence-prevention/soccer-goal-safety.

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

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

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

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

¹¹ When a school is closed or its starting time is delayed due to adverse weather conditions or a health or safety threat, the district may count a partial day of attendance as a full day for State aid purposes, provided: (1) at least one hour of instruction was provided or the normal start time was delayed, and (2) the superintendent provides the Regional Superintendent or the Suburban Cook County Intermediate Service Center, whichever is appropriate, with a written report in support of the partial day within 30 days (105 ILCS 5/18-12). ~~P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to the Intermediate Service Center for the area.~~

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

Annual Review 12

The Board or its designee will annually review each school building's safety and security plans, protocols, and procedures, as well as each building's compliance with the school safety drill plan.

LEGAL REF.: 105 ILCS 5/10-20.2, 5/10-20.56, 5/18-12, 5/18-12.5, and 128/
210 ILCS 74/, Physical Fitness Facility Medical Emergency Preparedness Act.

CROSS REF.: 4:110 (Transportation), 4:175 (Convicted Child Sex Offender; [Criminal Background Check and/or Screening](#); Notifications), 4:180 (Pandemic Preparedness), 5:30 (Hiring Process and Criteria), 8:30 (Visitors to and Conduct on School Property), 8:100 (Relations with Other Organizations and Agencies)

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¹² State law requires each school board or its designee to conduct one annual meeting at which it reviews each building's emergency and crisis response plan, protocols, and procedures and each building's compliance with the school safety drill plan (105 ILCS 128/25 and 128/30~~2~~). If the school board uses a designee, it should preferably be someone other than the District Safety Coordinator to assure an unbiased audit. The statutes contain detailed requirements. The board or its designee must complete a one-page report certifying that the review took place, among other things. The board or its designee must send a copy of the report to each participating party and the appropriate Regional Superintendent. ISBE's website contains an annual review checklist and report at www.isbe.net/safety/guide.htm.

Comment [KAS1]: RENAMED. The policy, Cross References, and footnotes are updated to:

1. Align with 5:260, *Student Teachers*, which is updated in response to 105 ILCS 5/10-21.9, 5/21B-5, and 5/21B-80, amended by P.A. 99-667;
2. Clarify School Code requirements for student teacher *fingerprint-based criminal history records checks*; and
3. Incorporate continuous improvement. **PRESS** subscriber feedback overwhelming prefers that "students doing field or clinical experience other than student teaching" *not* be in the sample default policy language. State law does not require these individuals, along with resource persons and volunteers, to have fingerprint-based criminal history records checks.

Operational Services

Convicted Child Sex Offender; ~~Criminal Background Check and/or Screening;~~ Notifications ¹

Persons Prohibited on School Property without Prior Permission

State law prohibits a child sex offender from being present on school property or loitering within 500 feet of school property when persons under the age of 18 are present, unless the offender meets either of the following two exceptions: ²

1. The offender is a parent/guardian of a student attending the school and has notified the Building Principal of his or her presence at the school for the purpose of: (i) attending a conference with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion; or
2. The offender received permission to be present from the School Board, Superintendent, or Superintendent's designee. If permission is granted, the Superintendent or Board President shall provide the details of the offender's upcoming visit to the Building Principal.

In all cases, the Superintendent or designee shall supervise a child sex offender whenever the offender is in a child's vicinity. ³ If a student is a sex offender, the Superintendent or designee shall develop guidelines for managing his or her presence in school. ⁴

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

¹ The topic covered by this policy was previously a part of 4:170, *Safety*.

² The Criminal Code, 720 ILCS 5/11-9.3, contains these requirements concerning a child sex offender's presence on school property. An Illinois federal court denied a father's request to enjoin a school's policy that prohibited him, as a child sex offender, from attending his children's school activities in *Doe v. Paris Union School Dist.*, No. 05-2249, 2006 WL 44304 (C.D.Ill., 2006). See also 8:30, *Visitors to and Conduct on School Property*.

³ 720 ILCS 5/11-9.3. The statute assigns the child sex offender the "duty to remain under the direct supervision of a school official." In order to ensure this happens and to protect students, the sample policy requires the superintendent or designee to supervise a child sex offender whenever the offender is in a child's vicinity. See also 8:30, *Visitors to and Conduct on School Property*.

⁴ Aside from rumor and notoriety, there are three ways that school officials may learn that an enrolled student is a sex offender or a violent offender against youth:

1. By being informed by the student or the student's parent/guardian.
2. Through the Illinois State Police Sex Offender Registry, www.isp.state.il.us/sor. A juvenile sex offender is listed there after the juvenile becomes 17 years old and will be listed for the remaining registration period (730 ILCS 150/2). The database is updated daily and allows searching by name, city, county, zip code, compliance status, or any combination thereof.
3. By receiving notification from a law enforcement agency that a juvenile sex offender or juvenile violent offender against youth is enrolled in a school. The law enforcement agency having jurisdiction to register the juvenile must provide a copy of the offender registration form to the building principal and guidance counselor designated by the principal; the school must keep the registration form separately from the student's school records (730 ILCS 152/121(b)).

Criminal Background Check and/or Screening 5

The Superintendent or designee shall perform ~~the fingerprint-based criminal history records information checks and/or criminal background check and/or screenings~~ required by State law or Board policy for employees; student teachers; students doing field or clinical experience other than student teaching; contractors' employees who have direct, daily contact with one or more children; and resource persons and volunteers. He or she shall take appropriate action based on the result of any criminal background check and/or screen.

Notification to Parents/Guardians

The Superintendent shall develop procedures for the distribution and use of information from law enforcement officials under the Sex Offender Community Notification Law and the Murderer and Violent Offender Against Youth Community Notification Law. 6 The Superintendent or designee shall serve as the District contact person for purposes of these laws. The Superintendent and Building Principal shall manage a process for schools to notify the parents/guardians during school registration that information about sex offenders is available to the public as provided in the Sex Offender Community Notification Law. 7 This notification must occur during school registration and at other times as the Superintendent or Building Principal determines advisable.

If a sex offender is enrolled in a school, guidelines for managing the sex offender's presence in school should be prepared. The components will depend on the situation but generally should include asking the parent/guardian of a sex offender below the age of 17 years for permission to share the information with certain staff for the protection of both the student and other students. In addition, the guidelines should include a supervision plan providing supervision for the student during all aspects of his or her school day. Finally, the guidelines must respect the privacy of juvenile records and comply with the Ill. School Student Records Act, 105 ILCS 10/. The board attorney should be consulted.

5 The law is silent with regard to screening volunteers and individuals in the proximity of a school. Screening and fingerprint-based criminal history records checks are different. See procedure 4:175-AP1, *Criminal Offender Notification Laws; Screening*, for further distinctions.

The School Code requires school districts to perform a fingerprint-based criminal history records check through (a) the Illinois State Police (ISP) for an individual's Criminal History Records Information (CHRI) and (b) the FBI's national crime information databases (105 ILCS 5/10-21.9(a), (a-5) and (a-6)).

Screening only involves checking an individual's name and address against publicly-available databases and information provided for local law enforcement like the: (1) Illinois Sex Offender Registry, www.isp.state.il.us/sor/, and (2) the Violent Offender Against Youth Registry maintained by the State Police, www.isp.state.il.us/cmvo/. See policy 5:30, *Hiring Process and Criteria*; procedure 5:30-AP2, *Investigations*; policy 6:250, *Community Resource Person and Volunteers*; and procedure 6:250-AP, *Securing and Screening Resource Persons and Volunteers*.

6 Sex Offender Community Notification Law, 730 ILCS 152/, and Murderer and Violent Offender Against Youth Community Notification Law, 730 ILCS 154/75-105. Law enforcement officials must notify school districts of the names, addresses, and offenses of registered offenders residing in their respective jurisdictions who have committed sex offenses and violent offenses against youth (730 ILCS 152/120 and 154/95). These laws are silent with regard to what, if anything, districts do with the information. The Sex Offender Community Notification Law, however, provides immunity for "any person who provides, or fails to provide, information relevant to the procedures set forth in this Law," (730 ILCS 152/130).

Naming a contact person will facilitate communication and cooperation with local law enforcement agencies. Any school official may be used as the contact person, and boards may wish to have a contact person from each building. See administrative procedure 4:175-AP1, *Criminal Offender Notification Laws; Screening*, for implementing procedures.

7 State law requires a principal or teacher to notify the parents/guardians during school registration or parent-teacher conferences that information about sex offenders is available to the public as provided in the Sex Offender Community Notification Law, 730 ILCS 152/. In an effort to keep this policy aligned with good governance practices, the responsibility is given to the superintendent and building principal to manage. While State law allows the notification to be made during registration or parent-teacher conferences, the sample policy makes a notification mandatory just during registration to be sure that all parents/guardians are informed.

LEGAL REF.: 20 ILCS 2635/, Uniform Conviction Information Act.
720 ILCS 5/11-9.3.
730 ILCS 152/, Sex Offender Community Notification Law.
730 ILCS 154/75-105, Murderer and Violent Offender Against Youth Community
Notification Law.

CROSS REF.: 5:30 (Hiring Process and Criteria), [5:260 \(Student Teachers\)](#), 6:250 (Community
Resource Persons and Volunteers), 8:30 (Visitors to and Conduct on School
Property), 8:100 (Relations with Other Organizations and Agencies)

General Personnel

Equal Employment Opportunity and Minority Recruitment ¹

The School District shall provide equal employment opportunities² to all persons regardless of their race; color; creed; religion;³ national origin; sex;⁴ sexual orientation;⁵ age;⁶ ancestry; marital status;⁷ arrest record;⁸ military status; order of protection status;⁹ unfavorable military discharge;¹⁰

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¹ Federal and State law (see the policy's legal references) require that all districts have a policy on equal employment opportunities and control this policy's content. **This is a complex, confusing, and highly litigated area of the law; consult the board attorney for advice on the application of these laws to specific fact situations.**

² *Equal employment opportunities* apply to virtually all terms and conditions of employment, e.g., discharge, hire, promotion, pay, demotion, and benefits (see legal references). The Illinois Constitution protects the following categories from discrimination in employment: race, color, creed, national ancestry, sex, and handicap (Art. I, §§17, 18, and 19). The Ill. Human Rights Act protects the following categories from discrimination in employment: race, color, religion, national origin, ancestry, age, sex, marital status, physical or mental disability~~handicap~~, military status, order of protection status, sexual orientation, pregnancy, and unfavorable discharge from military service (775 ILCS 5/1-102 and 1-103).

The Equal Employment Opportunities Act (Title VII) prohibits discrimination because of an individual's race, color, religion, sex, or national origin (42 U.S.C. §2000e et seq., amended by The Lilly Ledbetter Fair Pay Act, Pub.L. 111-2).

The Lilly Ledbetter Fair Pay Act clarifies that a discriminatory compensation decision or other practice occurs each time an employee is paid or receives a last benefits check pursuant to the discriminatory compensation decision as opposed to only from the time when the discriminatory compensation decision or other practice occurred. The Act has no legislative history available to define what the phrase *or other practice* might mean beyond a discriminatory compensation decision.

While not exhaustive, other laws protecting these and additional classifications are named in subsequent footnotes.

³ In addition to the Ill. Human Rights Act and the federal Equal Employment Opportunities Act (discussed in footnote f/n 2); see the Religious Freedom Restoration Act (775 ILCS 35/).

⁴ In addition to the Ill. Human Rights Act and the federal Equal Employment Opportunities Act (discussed in f/n 2), see Title IX of the Education Amendments, 20 U.S.C. §1681 et seq. The federal Equal Pay Act prohibits an employer from paying persons of one gender less than the wage paid to persons of the opposite gender for equal work (29 U.S.C. §206(d). The State Equal Pay Act of 2003, 820 ILCS 112/, offers greater protection by prohibiting the payment of wages to one gender less than another gender *for the same or substantially similar work*. ~~TSimilar to the Lilly Ledbetter Fair Pay Act~~, now defines *date of underpayment* as each time wages are underpaid. Employees have one year from the time they become aware of the underpayment to file a complaint with the Ill. Dept. of Labor (820 ILCS 112/15(b)). ~~The Pregnancy Discrimination Act amended the Equal Employment Opportunities Act to prohibit discrimination on the basis of pregnancy, childbirth, or related medical conditions (42 U.S.C. §2000e(k).~~

⁵ Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. *Sexual orientation* means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity; it does not include a physical or sexual attraction to a minor by an adult (775 ILCS 5/1-103(O-1).

⁶ Age Discrimination in Employment Act (ADEA), 29 U.S.C. §621 et seq., amended by The Lilly Ledbetter Fair Pay Act, Pub.L. 111-2 (see f/n 2). 29 C.F.R. Part 1625, amended the EEOC regulations under ADEA to reflect the U.S. Supreme Court's decision in General Dynamic Systems, Inc. v. Cline, 540 U.S. 581(2004), holding the ADEA to permit employers to favor older workers because of age. Thus favoring an older person over a younger person is not unlawful discrimination, even when the younger person is at least 40 years old.

⁷ 105 ILCS 5/10-22.4 and 775 ILCS 5/1-103(Q). The term *marital status* means an individual's legal status of being married, single, separated, divorced, or widowed (775 ILCS 5/1-103(J)). This statutory definition does not encompass the identity of one's spouse. Thus, school districts may adopt no-spouse policies. Boaden v. Dept. of Law Enforcement, 664 N.E.2d 61 (1996).

⁸ Districts may not make employment decisions on the basis of arrest history, but may use job-disqualifying criminal convictions (775 ILCS 5/2-103). The Job Opportunities for Qualified Applicants Act, 820 ILCS 75/, ~~added by P.A. 98-774, eff. 1-1-2015~~, prohibits an employer from asking about a criminal record until the employer determines that the applicant is qualified for the position; however, this does not apply when employers are required to exclude applicants with certain criminal convictions from employment. School employers should limit their requests for criminal convictions to *job-disqualifying* convictions. See also the U.S. Equal Employment Opportunity Commission's guidance, *Consideration of Arrest and Conviction Records in Employment Decisions*, at www.eeoc.gov/laws/guidance/arrest_conviction.cfm.

citizenship status provided the individual is authorized to work in the United States;¹¹ use of lawful products while not at work;¹² being a victim of domestic or sexual violence;¹³ genetic information;¹⁴ physical or mental handicap or disability, if otherwise able to perform the essential functions of the job with reasonable accommodation;¹⁵ pregnancy, childbirth, or related medical conditions;¹⁶ credit history, unless a satisfactory credit history is an established bona fide occupational requirement of a particular position;¹⁷ or other legally protected categories. **18 19 20 21** No one will be penalized solely

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⁹ 775 ILCS 5/1-103(Q). The term *order of protection status* means a person protected under an order of protection issued pursuant to the Illinois Domestic Violence Act of 1986 or an order of protection issued by a court of another state (775 ILCS 5/1-103(K-5)).

¹⁰ *Military status* means a person's status on active duty or in status as a veteran in the U.S. Armed Forces, veteran of any reserve component of U.S. Armed forces, or current member or veteran of the Illinois Army National Guard or Illinois Air National Guard (775 ILCS 5/1-103). *Unfavorable military discharge* does not include those characterized as RE-4 or *dishonorable*, (Id.). The Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. §§4301 et seq., prohibits employers from discriminating or retaliating against any person for reasons related to past, present, or future service in a *uniformed service*. See footnote f/n 9 in policy 5:30, *Hiring Process and Criteria*.

¹¹ 775 ILCS 5/1-102(C). According to the Immigration Reform and Control Act of 1986, 8 U.S.C. §§1324(a) et seq., all employers must verify that employees are either U.S. citizens or authorized to work in the U.S.

¹² 820 ILCS 55/5 prohibits discrimination based on use of lawful products, e.g., alcohol and tobacco, off premises during non-working hours.

¹³ Victims' Economic Security and Safety Act, 820 ILCS 180/30, amended by P.A. 98-766. An employer is prohibited from discriminating against any individual (e.g. an applicant for employment) because he or she "is an employee whose employer is subject to Section 21 of the Workplace Violence Prevention Act." The Workplace Violence Prevention Act (820 ILCS 275/et seq., amended by P.A. 98-766) allows an employer to seek a *workplace protection restraining order* when there is a credible threat of violence at the workplace. Section 21 requires the employer seeking a *workplace protection restraining order* to notify the employee who is a victim of unlawful violence.

¹⁴ Illinois' Genetic Information Protection Act (GIPA) (410 ILCS 513/25) and Title II of Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. §2000ff et seq.). Both laws protect job applicants and current and former employees from discrimination based on their genetic information. Note that GIPA provides greater protections to Illinois employees than Title II of GINA. See footnote f/n 75 in 2:260, *Uniform Grievance Procedure* for the definition of genetic information and a detailed description of both statutes, including of Title I of GINA affecting the use of genetic information in health insurance. In 2011, EEOC published an informative guidance letter, *ADA & GINA: Incentives for Workplace Wellness Program*, EEOC Informal Discussion Letter. Consult the board attorney for guidance regarding specific application of these laws and how they integrate with other related laws, e.g., the Family Medical Leave Act, the Americans with Disabilities Act, and other State laws governing time off for sickness and workers' compensation.

¹⁵ Americans with Disabilities Act, 42 U.S.C. §§12104-1 et seq., amended by the Americans with Disabilities Act Amendments Act (ADAAA), Pub. L. 110-325 and modified by the Lilly Ledbetter Fair Act, Pub. L. 111-2; Rehabilitation Act of 1973, 29 U.S.C. §791 et seq., modified by the Lilly Ledbetter Fair Pay Act, Pub. L. 111-2.

¹⁶ 775 ILCS 5/2-102(I). Employers must provide reasonable accommodations to employees with conditions related to pregnancy or childbirth (775 ILCS 5/2-102(J), added by P.A. 98-1050, eff. 1-1-2015). Employers are required to post a notice summarizing the right to be free from unlawful discrimination and the right to certain reasonable accommodations. Id. at 5/2-102(K). The Ill. Dept. of Labor is required to prepare such a notice, retrievable from its website, which employers may use.

Federal law also prohibits employers from discriminating against employees and applicants on the basis of pregnancy, childbirth, or related medical conditions (42 U.S.C. §2000e(k)). Pregnant workers with pregnancy-related impairments may have disabilities for which they may be entitled to reasonable accommodation under the ADA (42 U.S.C. §12112). Guidance from the U.S. Equal Employment Opportunity Commission (744/207-14-14) is available at: www.eeoc.gov/laws/guidance/pregnancy_qa.cfm.

¹⁷ Employee Credit Privacy Act, 820 ILCS 70/. Unless a satisfactory credit history is an *established bona fide occupational requirement* of a particular position, an employer may not: (1) refuse to hire, discharge, or otherwise discriminate against an individual with respect to employment because of the individual's credit history or credit report, (2) inquire about an applicant's or employee's credit history, or (3) order or obtain an applicant's or employee's credit report from a consumer reporting agency. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more.

¹⁸ Optional sentence (775 ILCS 5/1-103 and 29 U.S.C. §631):

Age, as used in this policy, means the age of a person who is at least 40 years old.

for his or her status as a registered qualifying patient or a registered designated caregiver for purposes of the Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/. 22

Persons who believe they have not received equal employment opportunities should report their claims to the Nondiscrimination Coordinator and/or a Complaint Manager for the Uniform Grievance Procedure. These individuals are listed below. No employee or applicant will be discriminated or retaliated against because he or she: (1) requested, attempted to request, used, or attempted to use a reasonable accommodation as allowed by the Illinois Human Rights Act, or (2) initiated a complaint, was a witness, supplied information, or otherwise participated in an investigation or proceeding involving an alleged violation of this policy or State or federal laws, rules or regulations, provided the employee or applicant did not make a knowingly false accusation nor provide knowingly false information. 23

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19 Optional provision (~~29 U.S.C. §705(10)(A) and (B), and 42 U.S.C. §12114~~):

Handicap and disability, as used in this policy, excludes persons:

1. Currently using illegal drugs (~~29 U.S.C. §705(10)(A) and (B), and 42 U.S.C. §12114~~);
2. Having a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, are unable to perform the duties of the job ~~29 U.S.C. §705(20)(D)~~; or
3. Whose current alcohol or drug use prevents them from performing the job's duties or constitutes a direct threat to the property or safety of others. ~~Id. at 705(20)(C)(ii)(I)~~.

Persons who have successfully completed or are participating in a drug rehabilitation program are considered ~~disabled~~*handicapped*. ~~Id. at 705(20)(I)~~.

20 Districts may not make residency in the district a condition of employment for teachers or educational support personnel (105 ILCS 5/24-4.1 and 10-23.5). This ban on residency requirements for teachers applies only to instructional personnel, and not, for example, to assistant principals. *Owen v. Kankakee School Dist.*, 632 N.E.2d 1073 (Ill.App.3, 1994). Districts also may not ask an applicant, or the applicant's previous employer, whether the applicant ever received, or filed a claim for, benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act (820 ILCS 55/10(a)). ~~Districts are also prohibited from requiring, requesting, or coercing an employee or potential employee to provide a user name and password or any password or other related account information to gain or demand access to his or her personal online account (Id. at 55/10(b), amended by P.A. 99-610, eff. 1-1-17). While the law does not prohibit employers from viewing public information, consult the board attorney before engaging in this practice.~~

21 School districts must accommodate mothers who choose to continue breastfeeding after returning to work. See the Right to Breastfeed Act, 740 ILCS 137/; Nursing Mothers in the Workplace Act, 820 ILCS 260/; and Fair Labor Standards Act, 29 U.S.C. §207(r)(1), ~~added by P.L. 111-148~~. See sample language for a personnel handbook in 5:10-AP, *Administrative Procedure - Workplace Accommodations for Nursing Mothers*.

22 410 ILCS 130/40, ~~added by P.A. 98-122~~; 77 Ill.Admin.Code Part 946. To legally use medical cannabis, an individual must first become a *registered qualifying patient*. Their use of cannabis (e.g. permissible locations) is governed by the Compassionate Use of Medical Cannabis Pilot Program Act (410 ILCS 130/, ~~added by P.A. 98-122~~). There are many situations in which no one, even a registered qualifying patient, may possess or use cannabis, including in a school bus or on the grounds of any preschool, or primary or secondary school (410 ILCS 130/30(a)(2) & (3)). See policy 5:50, *Drug- and Alcohol-Free Workplace; Tobacco Prohibition*.

23 775 ILCS 5/6-101. Discrimination on the basis of a request for or use of a reasonable accommodation is a civil rights violation under the Ill. Human Rights Act (~~Id.~~, ~~amended by P.A. 98-1050, eff. 1/1/2015~~). Most discrimination laws prohibit retaliation against employees who oppose practices made unlawful by those laws, including, for example, the Equal Employment Opportunities Act, Title IX, Americans with Disabilities Act, Age Discrimination in Employment Act, Victims' Economic Security and Safety Act, the Ill. Equal Pay Act, and the Ill. Whistleblower Act, ~~740 ILCS 174/~~.

The Ill. Whistleblower Act specifically prohibits employers from retaliating against employees for: (1) disclosing information to a government or law enforcement agency (740 ILCS 174/15(a)), (2) disclosing information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information reveals a violation of a State or federal law, rule or regulation (740 ILCS 174/15(b)), (3) refusing to participate in an activity that would result in a violation of a State or federal law, rule, or regulation, including, but not limited to, violations of the Freedom of Information Act (740 ILCS 174/20), and (4) disclosing or attempting to disclose public corruption or wrongdoing (740 ILCS 174/20.1). The definition of retaliation is expanded to include *other retaliation and threatening retaliation* (740 ILCS 174/20.1 and 20.2).

Administrative Implementation

The Superintendent shall appoint a Nondiscrimination Coordinator for personnel who shall be responsible for coordinating the District’s nondiscrimination efforts. The Nondiscrimination Coordinator may be the Superintendent or a Complaint Manager for the Uniform Grievance Procedure. The Superintendent shall insert into this policy the names, addresses, and telephone numbers of the District’s current Nondiscrimination Coordinator and Complaint Managers. 24

Nondiscrimination Coordinator:

Name

Address

Email

Telephone

Complaint Managers:

_____ Name	_____ Name
_____ Address	_____ Address
_____ Email	_____ Email
_____ Telephone	_____ Telephone

The Superintendent shall also use reasonable measures to inform staff members and applicants that the District is an equal opportunity employer, such as, by posting required notices and including this policy in the appropriate handbooks. 25

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

The Ill. False Claims Act, 740 ILCS 175/, defines *State* to include school districts. Thus, boards may seek a penalty from a person for making a false claim for money or property (740 ILCS 175/4). For information regarding the Ill. Whistleblower Act and the tort of retaliatory discharge, see Thomas v. Guardsmark, 487 F.3d 531 (7th Cir., 2007)(discussing the elements of retaliatory discharge and Ill. Whistleblower Act), and Sherman v. Kraft General Foods, Inc., 651 N.E.2d 708 (Ill.App.4th Dist., 1995)(finding employee who reported asbestos hazard had a cause of action for retaliatory discharge).

24 Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district’s compliance efforts. An email address is optional but may facilitate reporting. A policy should not be adopted with a person’s name in it; rather, the identifying information can be added and amended as necessary. Thus the policy should be adopted with blanks for the superintendent to fill in later.

25 In addition to notifying employees of the Uniform Grievance Procedure, a district must notify them of the person(s) designated to coordinate the district’s compliance with Title IX and the Rehabilitation Act of 1973 (34 C.F.R. §§106.8(a) and 104.8(a)). The Nondiscrimination Coordinator may be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as a Complaint Manager for policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information, to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and school board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

Minority Recruitment 26

The District will attempt to recruit and hire minority employees. The implementation of this policy may include advertising openings in minority publications, participating in minority job fairs, and recruiting at colleges and universities with significant minority enrollments. This policy, however, does not require or permit the District to give preferential treatment or special rights based on a protected status without evidence of past discrimination.

LEGAL REF.: Age Discrimination in Employment Act, 29 U.S.C. §621 et seq.
Americans With Disabilities Act, Title I, 42 U.S.C. §12111 et seq.
Civil Rights Act of 1991, ~~29 U.S.C. §§621 et seq.~~, 42 U.S.C. §1981 et seq., ~~§2000e et seq., and §12101 et seq.~~
Equal Employment Opportunities Act (Title VII of the Civil Rights Act of 1964), 42 U.S.C. §2000e et seq., 29 C.F.R. Part 1601.
Equal Pay Act, 29 U.S.C. §206(d).
Genetic Information Nondiscrimination Act, 42 U.S.C. §2000ff et seq.
Immigration Reform and Control Act, 8 U.S.C. §1324a et seq.
Rehabilitation Act of 1973, 29 U.S.C. §791 et seq.
Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d et seq.
Pregnancy Discrimination Act, 42 U.S.C. §2000e(k).
Title IX of the Education Amendments, 20 U.S.C. §1681 et seq., 34 C.F.R. Part 106.
Uniformed Services Employment and Reemployment Rights Act (1994), 38 U.S.C. §§4301 et seq.
Ill. Constitution, Art. I, §§17, 18, and 19.
105 ILCS 5/10-20.7, 5/10-20.7a, 5/10-21.1, 5/10-22.4, 5/10-23.5, 5/22-19, 5/24-4, 5/24-4.1, and 5/24-7.
Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/40.
Genetic Information Protection Act, 410 ILCS 513/25.
Ill. Whistleblower Act, 740 ILCS 174/.
Ill. Human Rights Act, 775 ILCS 5/1-103, 5/2-102, 5/2-103, and 5/6-101.
Religious Freedom Restoration Act, 775 ILCS 35/5.
Right to Privacy in the Workplace Act, 820 ILCS 55/10.
Employee Credit Privacy Act, 820 ILCS 70/.
Job Opportunities for Qualified Applicants Act, 820 ILCS 820 ILCS 75/.
Ill. Equal Pay Act of 2003, 820 ILCS 112/.
Victims' Economic Security and Safety Act, 820 ILCS 180/30.
Nursing Mothers in the Workplace Act, 820 ILCS 260.

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

²⁶ All districts must have a policy on minority recruitment (105 ILCS 5/10-20.7a). Unlike minority recruitment efforts, affirmative action plans are subject to significant scrutiny because of the potential for reverse discrimination. The U.S. Constitution's guarantee of equal protection prohibits school districts from using racial hiring quotas without evidence of past discrimination. See 29 C.F.R. §1608.1 et seq. (Equal Employment Opportunity Commission's guidelines for affirmative action plans); Wygant v. Jackson Board of Education, 106 S.Ct. 1842 (1986) (The goal of remedying societal discrimination does not justify race-based layoffs.); City of Richmond v. J.A. Croson Co., 109 S.Ct. 706 (1989) (Minority contractor quota struck; quotas must be narrowly tailored to remedy past discrimination and the city failed to identify the need for remedial action and whether race-neutral alternatives existed.)

The Ill. Human Rights Act, 775 ILCS 5/1-101.1, states that it shall not be construed as requiring any employer to give preferential treatment or special rights based on sexual orientation or to implement affirmative action policies or programs based on sexual orientation.

[23 Ill. Admin. Code §1-230.](#)

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria, 5:40 (Communicable and Chronic Infectious Disease), 5:50 (Drug- and Alcohol-Free Workplace; Tobacco Prohibition), 5:70 (Religious Holidays), 5:180 (Temporary Illness or Temporary Incapacity), 5:200 (Terms and Conditions of Employment and Dismissal), 5:250 (Leaves of Absence), 5:270 (Employment, At-Will, Compensation, and Assignment), 5:300, (Schedules and Employment Year), 5:330 (Sick Days, Vacation, Holidays, and Leaves), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 8:70 (Accommodating Individuals with Disabilities)

Comment [KAS1]: Policy and footnotes are updated in response to a statutory citation change in 105 ILCS 5/21B-80, amended by P.A. 99-667 and the Privacy in the Workplace Act, 820 ILCS 55/10(a), amended by P.A. 99-610, eff. 1-1-17.

General Personnel

Hiring Process and Criteria 1

The District hires the most qualified personnel consistent with budget and staffing requirements and in compliance with School Board policy on equal employment opportunity and minority recruitment.² The Superintendent is responsible for recruiting personnel and making hiring recommendations to the Board.³ If the Superintendent's recommendation is rejected, the Superintendent must submit another.⁴ No individual will be employed who has been convicted of a criminal offense listed in Section 5/21B-80(c) of the School Code. ⁵

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

Job Descriptions

The Superintendent shall develop and maintain a current comprehensive job description for each position or job category; however, a provision in a collective bargaining agreement or individual contract will control in the event of a conflict. ⁷

Comment [KAS2]: P.A. 99-667 carved an exemption for certain drug convictions when seven years since the end of the sentence for the criminal offense has passed. Sec. 5/21B(c) is now the section that contains prohibited convictions, e.g. Class X felonies, sex offenses, etc. Not citing this specific Sec. 5/21B(c) changes the meaning of the sentence.

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

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

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

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

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

Subject to an applicable collective bargaining agreement in effect on ~~June 13, 206-13-~~11, a board that fills a "new or vacant teaching position" must select a candidate based on: (1) certifications, (2) qualifications, (3) merit and ability (including performance evaluation, if available), and (4) relevant experience (105 ILCS 5/24-1.5). The statute does not define "new or vacant teaching positions." The requirement does not apply to filling vacant positions under 105 ILCS 5/24-12, ~~amended by P.A. 98-648~~ (reduction in force and recall). Consult the board attorney about these issues.

⁴ An additional optional sentence follows:

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

⁵ 105 ILCS 5/10-21.9(c), ~~amended by P.A. 97-607~~; 105 ILCS 5/21B-80, amended by P.A. 99-667, allows individuals with criminal histories involving certain drug convictions to apply for or to reinstate their educator licenses seven years after their sentence for the criminal offense is completed. Consult the board attorney about whether the board wants to continue prohibiting employment for any individual who has a criminal history involving these exempted drug offenses.

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

Each employment application for ~~a certificated these~~ positions must state the following (Id.):

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

⁷ Job descriptions will become the basis for categorizing a teacher into one or more positions that the teacher is qualified to hold for reduction in force (RIF) dismissal and recall purposes (105 ILCS 5/24-12(b)). A board should consult with its attorney to review its current list of job descriptions and discuss the district's specific responsibilities.

Investigations

The Superintendent or designee shall ensure that a fingerprint-based criminal history records check and a check of the Statewide Sex Offender Database and Violent Offender Against Youth Database is performed on each applicant as required by State law.⁸ The Superintendent or designee shall notify an applicant if the applicant is identified in either database.⁹ The School Code requires the Board President to keep a conviction record confidential and share it only with the Superintendent, Regional Superintendent, State Superintendent, State Educator Preparation and Licensure Board, any other person necessary to the hiring decision, or for purposes of clarifying the information, the Department of State Police and/or Statewide Sex Offender Database. ¹⁰

Each newly hired employee must complete an Immigration and Naturalization Service Form as required by federal law. ¹¹

The District retains the right to discharge any employee whose criminal background investigation reveals a conviction for committing or attempting to commit any of the offenses outlined in Section 5/21B-80 of the School Code or who falsifies, or omits facts from, his or her employment application or other employment documents.

The Superintendent shall ensure that the District does not engage in any investigation or inquiry prohibited by law and complies with each of the following: ¹²

A job description is evidence of a position's *essential functions* (29 C.F.R. §1630.2(n)). The Americans with Disabilities Act protects individuals who have a disability and are qualified, with reasonable accommodation, to perform the *essential functions* of the job (42 U.S.C. §12101, amended by the ADA Amendments Act (ADAAA), Pub. L. 110-325). Determining which functions are essential may be critical to determining if an individual with a disability is qualified. An individual is qualified to perform a job even though he or she is unable, due to a disability, to perform tasks which are incidental to the job. Only when an individual is unable to perform the *essential functions* of a job may a district deny the individual employment opportunities (29 C.F.R. §1630.2(m)). For a definition of essential functions see particular function to be essential: (1) the employer must actually require employees in the position to perform it, and (2) the position would be fundamentally altered if the function were removed (Id. at 1630.2(n)). Whether a particular function is essential is a factual determination.

Important: The ADAAA makes significant changes to the ADA's definition of disability that broadens the scope of coverage and overturns a series of U.S. Supreme Court decisions that made it difficult to prove that an impairment was a disability. The final regulations were by a bipartisan vote and approved on March 25, 2003-25-11. There is information about the regulations and a link to them at: www.eeoc.gov/laws/regulations/adaaa_fact_sheet.cfm. Consult the board attorney regarding how these amendments impact the district's hiring processes.

⁸ The policy's requirements on criminal records checks are mandated by 105 ILCS 5/10-21.9. See administrative procedure 5:30-AP2, *Investigations*, for the process and positions requiring criminal background investigation. The Statewide Sex Offender Database (a/k/a Sex Offender Registry) is available at: www.isp.state.il.us/sor. The Statewide Murderer and Violent Offender Against Youth Database is available at: www.isp.state.il.us/cmvo/.

⁹ ~~105 ILCS 5/10-21.9.~~

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

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." ~~The Regional Office of Education for Suburban Cook County was abolished and its duties and powers transpired to the intermediate service center for the area by P.A. 96-892.~~

¹¹ Immigration Reform and Control Act, 8 U.S.C. §1324a et seq. Consult with the board attorney regarding the district's rights and responsibilities under all Illinois laws if the district uses any electronic employment verification system, including *E-Verify* and/or the Basic Pilot Program (820 ILCS 55/). This statute urges employers who voluntarily use *E-Verify* (formerly known as the Basic Pilot/Employment Eligibility Verification Program) to consult the Ill. Dept. of Labor's website for current information on the accuracy of *E-Verify* and to review and understand their legal responsibilities relating to the use of any electronic employment verification systems. See f/n 2 in 5:150-AP, *Personnel Records*, for a more detailed discussion of *E-Verify* issues.

¹² As an alternative to describing the prohibited investigations, a board may substitute this sentence:

1. The District uses an applicant’s credit history or report from a consumer reporting agency only when a satisfactory credit history is an established bona fide occupational requirement of a particular position. **13**
2. The District does not ask an applicant or applicant’s previous employers about claim(s) made or benefit(s) received under the Workers’ Compensation Act. **14**
3. The District does not request of an applicant or employee access in any manner to his or her social networking website, including a request for passwords to such sites. **15**
4. The District provides equal employment opportunities to all persons. See policy 5:10, *Equal Employment Opportunity and Minority Recruitment*.

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

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

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

14 Right to Privacy in the Workplace Act, 820 ILCS 55/10(a), amended by P.A. 99-610, eff. 1-1-17.

15 Id. at 55/10(b)(1), 820 ILCS 55/40, amended by P.A. 99-610, eff. 1-1-17 (commonly known as the Facebook Password Law) and amended by P.A. 98-501. The exception is for a professional account (added by P.A. 98-501) Id. at 55/10(b)(5), amended by P.A. 99-610, eff. 1-1-17), is so limited that it appears to be unavailable to school employers. A *professional account* is defined as “an account, service, or profile created, maintained, used, or accessed by a current or prospective employee for business purposes of the employer.” Bracketed explanations follow the statutory language:

“Provided that the password, account information, or access sought by the employer relates to a professional account, and not a personal account, nothing in this subsection shall prohibit or restrict an employer from complying with a duty to screen employees or applicants prior to hiring”

[When read with the definition of *professional account*, it is implausible that an applicant would have an account, service, or profile for business purposes of a school employer.]

“... or to monitor or retain employee communications as required under Illinois insurance laws or federal law or by a self-regulatory organization as defined in the [Securities Exchange Act].”

[This clause appears to be inapplicable to school districts.]

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

Physical Examinations 16

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

Any employee may be required to have an additional examination by a physician who is licensed in Illinois to practice medicine and surgery in all its branches, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the authority by his or her supervising physician to perform health examinations, if the examination is job-related and consistent with business necessity.¹⁷ The Board will pay the expenses of any such examination.

Orientation Program

The District's staff will provide an orientation program for new employees to acquaint them with the District's policies and procedures, the school's rules and regulations, and the responsibilities of their position. Before beginning employment, each employee must sign the *Acknowledgement of Mandated Reporter Status* form as provided in policy 5:90, *Abused and Neglected Child Reporting*.

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

¹⁶ 105 ILCS 5/24-5, ~~amended by P.A. 98-716~~. According to this statute, "[a] new or existing employee may be subject to additional health examinations, including tuberculosis screening, as required by rules adopted by the Ill. Dept. of Public Health or by order of a local public health official." ~~As of Aug. 2014, the Ill. Dept. of Public Health does not require school employees to be screened for tuberculosis other than workers in child day care and preschool settings (77 Ill.Admin.Code §696.140(a)(3)).~~

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

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

Federal law limits pre-employment medical inquiries to whether the applicant is able to perform job-related functions; required medical examinations of applicants is forbidden (American with Disabilities Act [ADA], 42 U.S.C. §12112(d)(2), ~~as amended by the ADAAA, Pub. L. 110-325~~); see also f/n 7 for an explanation regarding the ADAAA. Districts may condition an employment offer on taking and passing medical inquiries or physical exams, provided that all entering employees in the same classification receive the same conditional offer.

¹⁷ The State law (105 ILCS 5/24-5) allowing boards to require physicals of current employees "from time to time," has been superseded by federal law (ADA, 42 U.S.C. §12112(d)(4), ~~as amended by the ADAAA, Pub. L. 110-325~~). The ADA allows medical inquiries of current employees only when they are job-related and consistent with business necessity or part of a voluntary employee wellness program (Id.). Districts may deny jobs to individuals with disabilities who pose a direct threat to the health or safety of others in the workplace, provided that a reasonable accommodation would not either eliminate the risk or reduce it to an acceptable level (42 U.S.C. §12113; 29 C.F.R. Part 1630.2(r)). See f/n 7 for an explanation regarding the ADAAA.

See the f/n 16 for a discussion of examinations by spiritual leaders/practitioners.

LEGAL REF.: 105 ILCS 5/10-21.9 and 5/24-5.
Employee Credit Privacy Act, 820 ILCS 70/
Right to Privacy in the Workplace Act, 820 ILCS 55/
Americans with Disabilities Act, 42 U.S.C. §12112, 29 C.F.R. Part 1630.
Immigration Reform and Control Act, 8 U.S.C. §1324a et seq.
105 ILCS 5/10-16.7, 5/10-20.7, 5/10-21.4, 5/10-21.9, 5/21B-10, 5/21B-80, 5/10-
22.34, 5/10-22.34b, 5/22-6.5, and 5/24-1 et seq.
820 ILCS 55/ and 70/
Duldulao v. St. Mary of Nazareth Hospital, 483 N.E.2d 956 (Ill.App.1, 1985), *aff'd*
in part and remanded 505 N.E.2d 314 (Ill., 1987).
Kaiser v. Dixon, 468 N.E.2d 822 (Ill.App.2, 1984).
Molitor v. Chicago Title & Trust Co., 59 N.E.2d 695 (Ill.App.1, 1945).

CROSS REF.: 3:50 (Administrative Personnel Other Than the Superintendent), 4:175
(Convicted Child Sex Offender; [Criminal Background Check and/or Screening](#);
Notifications), 5:10 (Equal Employment Opportunity and Minority Recruitment),
5:40 (Communicable and Chronic Infectious Disease), 5:90 (Abused and
Neglected Child Reporting), 5:125 (Personal Technology and Social Media;
Usage and Conduct), 5:220 (Substitute Teachers), 5:280 (Educational Support
Personnel - Duties and Qualifications)

General Personnel

Expenses ¹

The Board regulates the reimbursement of all travel, meal, and lodging expenses by resolution.² Money shall not be advanced or reimbursed, or purchase orders issued for: (1) the expenses of any person except the employee,³ (2) anyone's personal expenses,⁴ or (3) entertainment expenses.⁵ Entertainment includes, but is not limited to, shows, amusements, theaters, circuses, sporting events, or any other place of public or private entertainment or amusement, unless the entertainment is ancillary to the purpose of the program or event.⁶ Employees must submit the appropriate itemized, signed, standardized form(s) to support any requests for expense advancements, reimbursements, or purchase orders that show the following: ⁷

1. The amount of the estimated or actual expense, with attached receipts for actual incurred expenses.
2. The name and title of the employee who is requesting the expense advancement or reimbursement. Receipts from group functions must include the names, offices, and job titles of all participants.⁸

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 5/10-9, 5/10-10, and 5/22-1 (no compensation allowed, conflicts of interest prohibited); 105 ILCS 5/10-22.32 (expense advancements); and the Local Government Travel Expense Control Act (ECA) 50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17 (regulation of travel expenses)). The deadline for implementation of this policy under the ECA is 7-1-17, but as a practical matter due to other requirements in the law, the implementation deadline will be 3-2-17; see the third paragraph in f/n 3 of policy 2:125, *Board Member Compensation; Expenses*.

² 105 ILCS 5/10-22.32 states that "[t]he school board may advance to teachers and other certified employees the anticipated actual and necessary expenses incurred in attending meetings that are related to that employee's duties and will contribute to the professional development of that employee." This policy expands beyond those two categories (105 ILCS 5/10-20) of employees, and the limited purpose of attending meetings, to reimburse all employees for approved expenses necessary for the employee to perform his or her duties.

This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. If a local collective bargaining agreement contains a provision on expenses, consult the board attorney about how this policy may impact it.

³ 50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17. See f/ns 4 through 8 in policy 2:125, *Board Member Compensation; Expenses*, for more discussion.

For a sample resolution, see 2:125-E3, *Resolution to Regulate Expense Reimbursements*.

⁴ 105 ILCS 5/10-22.32. The final paragraph of this law prohibits money for expenses to be advanced or reimbursed to any person other than a board member or employee of the district.

⁵ Optional. *Personal expenses* are not defined in 50 ILCS 150/25, added by P.A. 99-604, eff. 1-1-17 or 105 ILCS 5/10-22.32. Consult the board attorney about this term and delete it only at the direction of the board attorney. Excluding personal expenses from advancements, reimbursements, and purchase orders is a generally-accepted best practice. The practice also aligns well with the State's widely-accepted transparency movement. Reimbursing personal expenses is also a magnet for the media.

⁶ 50 ILCS 150/25, added by P.A. 99-604, eff. 1-1-17.

⁷ *Id.*

⁸ 50 ILCS 150/20, added by P.A. 99-604, eff. 1-1-17. The School Code uses the term *voucher* for expense advancements (105 ILCS 5/10-22.32); the ECA requires submission of itemized, signed, standardized forms. Both 5:60-E1, *Employee Expense Reimbursement Form* and 5:60-E2, *Employee Estimated Expense Approval Form* incorporate *voucher* into the ECA's requirement to use standardized forms. See f/n 11 below, and see also f/n 20 of policy 2:125, *Board Member Compensation; Expenses*, for more discussion.

⁹ *Id.* at (2) and (3). This sentence mirrors the statute. The term *offices* is not defined. Consult the board attorney about whether inserting *job titles* would be sufficient for this requirement.

3. The date(s) of the official business on which the expense advancement, reimbursement, or purchase order will be or was expended.⁹
4. The nature of the official business conducted when the expense advancement, reimbursement, or purchase order will be or was expended.¹⁰

Advancements

The Superintendent may advance expenses to teachers and other licensed employees for the anticipated actual and necessary expenses to be incurred while attending meetings that are related to their duties and will contribute to their professional development,¹¹ provided they fall below the maximum allowed in the Board's expense regulations.¹²

Expense advancement requests must be submitted to the Superintendent or designee on the District's standardized estimated expense approval form for employees. After spending expense advancements, employees must use the District's standardized expense reimbursement form and submit to the Superintendent: (a) the itemized, signed advancement voucher that was issued, and (b) the amount of actual expenses by attaching receipts.¹³ Any portion of an expense advancement not used must be returned to the District.¹⁴ Expense advancements and vouchers shall be presented to the Board in its regular bill process.

Reimbursements and Purchase Orders

Expense reimbursements and purchase orders may be issued by the Superintendent or designee to employees, along with other expenses necessary for the performance of their duties, provided the expenses fall below the maximum allowed in the Board's expense regulations.

Expense reimbursements and purchase order approvals are not guaranteed and, when possible, employees should seek pre-approval of expenses¹⁵ by providing an estimation of expenses on the District's standardized estimated expense approval form for employees, except in situations when the expense is diminutive. When pre-approval is not sought, employees must seek reimbursement on the

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⁹ *Id.* at (4).

¹⁰ *Id.*

¹¹ 105 ILCS 5/10-22.32 authorizes advancements for the listed items. This statute addresses expense advancements for certain activities; its language pre-dates the ECA and is narrower than the ECA. This policy seeks to reconcile the differences by separating advancements into a separate subhead. See f/n 7 above, and see also f/n 20 of policy 2:125, *Board Member Compensation; Expenses*, for more discussion.

¹² 50 ILCS 150/10 and 20, added by P.A. 99-604, eff. 1-1-17. This phrase recognizes that while advancements are allowed in these situations, they should remain below the MARA set by the board.

¹³ 50 ILCS 150/20, added by P.A. 99-604, eff. 1-1-17.

¹⁴ This paragraph's provisions are required by 105 ILCS 5/10-22.32.

¹⁵ Optional. Consult the board attorney to determine whether a pre-approval process is appropriate for the district. Neither 105 ILCS 5/10-22.32 (expense advancements) nor 50 ILCS 150/ (expense reimbursements and estimates) address expense *pre-approvals*. 50 ILCS 150/20 states: "an *estimate* if expenses have not been incurred ..." or "a *receipt* ... if the expenses have already been incurred," suggesting no pre-approval is necessary. However, pre-approval is a best practice, and an employee who incurs expenses without pre-approval may run the risk that his or her expenses will not be approved. On the other hand, submitting estimated expenses for approval begs a pre-approval process, and some attorneys may read the law to require pre-approval of expenses. The pre-approval process also provides school officials with better information for financial planning.

Consult the board attorney to determine whether a pre-approval process is appropriate for the district. If it is required, ensure that 2:125-E3, *Resolution to Regulate Expense Reimbursements* reflects the district's specific pre-approval requirements. For an example of a standardized *estimated* expense form that could be used as a form of pre-approval, see 5:60-E2, *Employee Estimated Expense Approval Form*. The form provides three methods for employees to submit estimated expenses: providing estimated expenses (50 ILCS 150/), expense advancements for the specific activities (105 ILCS 5/10-22.32), or a purchase order.

District's standardized expense reimbursement form for employees. Expense reimbursements and purchase orders shall be presented to the Board in its regular bill process.

Use of Credit and Procurement Cards

Credit and procurement card usage is governed by policy 4:55, *Use of Credit and Procurement Cards*.

Exceeding the Maximum Allowable Expense Amount(s) 16

All requests for expense advancements, reimbursements, and purchase orders exceeding the maximum allowed in the Board's expense regulations may only be approved when:

1. The Board's resolution to regulate expenses allows for such approval;
2. An emergency or other extraordinary circumstance exists; and
3. The request is approved by a roll call vote at an open Board meeting.¹⁷

Registration 18

When possible, registration fees will be paid by the District in advance.

Travel

The least expensive method of travel will be used, provided that no hardship will be caused to the employee. Employees will be reimbursed for:

1. Air travel at the coach or economy class commercial airline rate. First class or business class air travel will be reimbursed only if emergency circumstances warrant. The emergency circumstances must be explained on the expense form and Board approval of the additional expense is required. Copies of airline tickets must be attached to the expense form.
2. Rail or bus travel at actual cost. Rail or bus travel costs may not exceed the cost of coach airfare. Copies of tickets must be attached to the expense form to substantiate amounts.
3. Use of personal automobiles at the standard mileage rate approved by the Internal Revenue Service for income tax purposes. The reimbursement may not exceed the cost of coach airfare. Mileage for use of personal automobiles in trips to and from transportation terminals will also be reimbursed. Toll charges and parking costs will be reimbursed.
4. Automobile rental costs when the vehicle's use is warranted. The circumstances for such use must be explained on the expense form.
5. Taxis, airport limousines, or other local transportation costs.

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

¹⁶ 50 ILCS 150/ does not define *maximum allowable reimbursement amount* (MARA). Consult the board attorney to assist with a conversation about how much authority the board wishes to delegate to the superintendent for purposes of setting the MARA. Topics for these conversations are listed in f/n 8 of policy 2:125, *Board Member Compensation; Expenses*.

¹⁷ 50 ILCS 150/10 and 15. See f/n 13 in policy 2:125, *Board Member Compensation; Expenses* for more discussion.

¹⁸ Amend the language in subheads **Registration**, **Travel**, **Meals**, **Lodging**, and **Miscellaneous Expenses** to align with the MARA defined in the board's expense regulation resolution. See 2:125-E3, *Resolution to Regulate Expense Reimbursements* for a sample resolution.

See f/n 4 in policy 2:125, *Board Member Compensation; Expenses*, for further discussion about the board's power to set the expense regulations by policy (105 ILCS 5/10-20) and f/n 8 for considerations and unanswered questions surrounding its statutorily-imposed duty to set a MARA (50 ILCS 150/10, added by P.A. 99-604, eff. 1-1-17).

Meals

Meals charged to the District should represent mid-fare selections for the hotel/meeting facility or general area.¹⁹ Tips are included with meal charges. Expense forms must explain the meal charges incurred. Alcoholic beverages will not be reimbursed.

Lodging

Employees should request conference rate or mid-fare room accommodations. A single room rate will be reimbursed. Employees should pay personal expenses at checkout. If that is impossible, deductions for the charges should be made on the expense form.

Miscellaneous Expenses

Employees may seek reimbursement for other expenses incurred while attending a meeting sponsored by organizations described herein by fully describing the expenses on the expense form, attaching receipts.

LEGAL REF.: 105 ILCS 5/10-22.32.
Local Government Travel Expense Control Act, 50 ILCS 150/.

CROSS REF.: 2:125 (Board Member Compensation; Expenses), 2:240 (Board Policy Development), 4:50 (Payment Procedures), 4:55 (Use of Credit and Procurement Cards)

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

¹⁹ Alternatively, a board could set a daily limit on meal costs, such as:

Employees will be reimbursed for meal costs and tips up to \$_____ per day consistent with the maximum reimbursement amount(s) set by the Board.

But see also ¶n 8 of policy 2:125, *Board Member Compensation; Expenses* and ensure this amount is consistent with the MARA set by the board resolution.

Comment [KAS1]: No substantial policy changes. Cross References and footnotes are updated to address asthma action plan and ADA training requirements.

General Personnel

Staff Development Program ¹

The Superintendent or designee shall implement a staff development program. The goal of such program shall be to update and improve the skills and knowledge of staff members in order to achieve and maintain a high level of job performance and satisfaction. Additionally, the development program for licensed staff members shall be designed to effectuate the District and School Improvement Plans so that student learning objectives meet or exceed goals established by the District and State.

The staff development program shall provide, at a minimum, at least once every ~~two~~ 2 years, the in-service training of licensed school personnel and administrators on current best practices regarding the identification and treatment of attention deficit disorder and attention deficit hyperactivity disorder, the application of non-aversive behavioral interventions in the school environment, and the use of psychotropic or psychostimulant medication for school-age children. ²

The staff development program shall provide, at a minimum, once every ~~two~~ 2 years, the in-service training of all District staff on educator ethics, teacher-student conduct, and school employee-student conduct. ^{3 4 5}

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

¹ State law requires the subject matter in paragraph 2 to be covered by policy. State or federal law controls this policy's content. A school board may set and enforce professional growth requirements (105 ILCS 5/24-5). Failure to meet professional growth requirements is considered remediable. *Morris v. ISBE*, 555 N.E.2d 725 (Ill.App.3, 1990).

² 105 ILCS 5/2-3.62, amended by P.A. 99-30 (repealing 105 ILCS 5.2-3.60), requires ISBE to establish a regional network of educational service centers to coordinate and combine existing services in a manner that is practical and efficient for schools. Their purposes are to provide, among other things, continuing education, in-service training, and staff development services to all local school districts in Illinois.

³ This paraphrases 105 ILCS 5/10-20.36. The topic covered in this paragraph must be in a board policy (Id.). A school medical staff, an individualized educational program team, or a professional worker (as defined in Section 14-1.10) may recommend that a student be evaluated by an appropriate medical practitioner. School personnel may consult with the practitioner, with the consent of the student's parent/guardian.

⁴ 105 ILCS 5/10-22.39(f) requires boards to conduct this in-service. While the language of this paragraph is not required to be in board policy, including it provides a way for boards to monitor that it is being done. Including this language provides an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for the in-service that instructs all district staff to maintain boundaries and act appropriately, professionally, and ethically with students. See also 5:120, *Ethics and Conduct*, and f/n 8 in 4:110, *Transportation*. These expectations will be most effective when they reflect local conditions and circumstances. Employee conduct issues may be subjects of mandatory collective bargaining, therefore consulting the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing new employee conduct rules without first offering to negotiate them with the applicable exclusive bargaining representative.

⁵ Insert the following option if a board wants to list in-services and/or required trainings that the School Code requires, but are not required to be specified in board policy (105 ILCS 5/10-22.39 and 110/3.10(b)(2). If the board does not choose this option, delete 325 ILCS 5/4 from the Legal References. The only non-School Code training requirement listed is from the Abused and Neglected Child Reporting Act.

In addition, the staff development program shall include each of the following:

1. At least, once every ~~two~~ 2 years, training of all District staff by a person with expertise on anaphylactic reactions and management.
2. At least every ~~two~~ 2 years, an in-service to train school personnel, at a minimum, to understand, provide information and referrals, and address issues pertaining to youth who are parents, expectant parents, or victims of domestic or sexual violence.
3. Training that, at a minimum, provides District staff with a basic knowledge of matters relating to acquired immunodeficiency syndrome (AIDS) and the availability of appropriate sources of counseling and referral.

4. Training for school personnel who work with students in grades 7 through 12 to identify the warning signs of mental illness and suicidal behavior in adolescents and teens along with appropriate intervention and referral techniques.
5. Abused and Neglected Child Reporting Act (ANCRA), School Code, and *Erin's Law* Training as follows:
 - a. Staff development for local school site personnel who work with students in grades kindergarten through 8, in the detection, reporting, and prevention of child abuse and neglect (see policy 5:90, *Abused and Neglected Child Reporting*).
 - b. Within one year of employment, each staff member must complete mandated reporter training from a provider or agency with expertise in recognizing and reporting child abuse. Mandated reporter training must be completed again at least every five years (see policy 5:90, *Abused and Neglected Child Reporting*).
 - c. Informing educators about the recommendation in the *Erin's Law* Taskforce Report requesting them to attend continuing professional development programs that address the prevention and identification of child sexual abuse (see policy 5:90, *Abused and Neglected Child Reporting*).
6. Education for staff instructing students in grades 7 through 12, concerning teen dating violence as recommended by the District's Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students or Complaint Manager.
7. Ongoing professional development for teachers, administrators, school resource officers, and staff regarding the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, and developmentally appropriate disciplinary methods that promote positive and healthy school climates.
8. Annual continuing education and/or training opportunities (*professional standards*) for school nutrition program directors, managers, and staff. Each school food authority's director shall document compliance with this requirement by the end of each school year and maintain documentation for a three year period.
9. All high school coaching personnel, including the head and assistant coaches, and athletic directors must obtain online concussion certification by completing online concussion awareness training in accordance with 105 ILCS 25/1.15. Coaching personnel and athletic directors hired before 8-18-~~20~~14 must be certified by 8-19-2015; if hired on or after 8-19-~~20~~14, they must be certified before their position's start date.
10. The following individuals must complete concussion training as specified in the Youth Sports Concussion Safety Act: coaches and assistant coaches (whether volunteer or employee) of an interscholastic athletic activity; nurses serving on the Concussion Oversight Team; athletic trainers; game officials of an interscholastic athletic activity; and physicians serving on the Concussion Oversight Team. Individuals covered by this training mandate ~~were to must~~ initially complete the training by 9-1-~~20~~16.
- ~~10-11.~~ Every two years, school personnel who work with students must complete an in-person or online training program on the management of asthma, the prevention of asthma symptoms, and emergency response in the school setting.

Alternative to paragraph number 2:

2. At least every two years, an in-service to train school personnel who work with students on how to: (a) communicate with and listen to youth victims of domestic or sexual violence and expectant and parenting youth, (b) connect youth victims of domestic or sexual violence and expectant and parenting youth to appropriate in-school services and other agencies, programs and services as needed, and (c) implement the School District's policies, procedures, and protocols with regard to such youth, including confidentiality. The in-service shall be conducted by persons with expertise in domestic and sexual violence and the needs of expectant and parenting youth.

Citations for this option follow:

1. 105 ILCS 5/10-22.39(e) (refers to anaphylactic reactions/management).
2. 105 ILCS 10-22.39(d).
3. 105 ILCS 5/10-22.39(c).
4. 105 ILCS 5/10-22.39(b).
5. 105 ILCS 5/10-23.12; 325 ILCS 5/4; and *Erin's Law Taskforce Final Report*, authorized by 105 ILCS 5/22-65 and repealed by P.A. 99-30 because of submission of the Report at: www.isbe.state.il.us/reports/erins-law-final0512.pdf and see also <http://www.erinslawillinois.org/> for more resources based upon the report.
6. 105 ILCS 110/3.10(b)(2).
7. 105 ILCS 5/10-22.6(c-5), amended by P.A. 99-456, ~~eff. 9-15-16~~. School board members are also included.

The Superintendent shall develop protocols for administering youth suicide awareness and prevention education to staff consistent with Board policy 7:290, *Suicide and Depression Awareness and Prevention*. **6**

8. 7 C.F.R. Part 210. Section 210.2 defines school nutrition program directors, managers and staff. 7 C.F.R. §§210.15(b)(8) (recordkeeping requirements) and 210.301(a), (c), (d), and (e) (professional standards requirements), and 210.301(g)(requiring school food authority director to keep records), amended by Fed. Reg. Vol. 81, No. 146 at 50169 and finalized 7-29-16. Food service funds may be used for reasonable, allocable, and necessary training costs (7 C.F.R. §210.301(f)). The U.S. Dept. of Agriculture (USDA) has established implementation resources that contain training opportunities and resources covering the four core training areas: nutrition, operations, administration, and communications/marketing. They are available at: <http://professionalstandards.nal.usda.gov>.
9. 105 ILCS 25/1.15.
10. 105 ILCS 5/22-80(h), added by P.A. 99-245, and possibly amended by SB219 P.A. 99-486 (if approved by the House and signed by the Governor, SB219 will extend the effective date to the 2016-2017 school year).
11. 105 ILCS 5/22-30(j-15), amended by P.A. 99-843. Consult the board attorney about whether:
 - a. All asthma action plans should require immediate 911 calls based upon In re: Estate of Jeffery Stewart, 2016 IL App (2d) 151117, No. 2-15-1117 (8-24-16), at: www.illinoiscourts.gov/Opinions/AppellateCourt/2016/2ndDistrict/2151117.pdf. The court held that a teacher's failure to dial 911 immediately upon a student's asthma attack was willful and wanton conduct, subjecting the school district to liability under the Local Governmental Employees Tort Immunity Act.
 - b. The duties and responsibilities of the district when it asks for, but does not receive an asthma action plan from a parent/guardian and the logistics of distributing any received plans to those employees who need to know based upon Stewart, above.

Putting this optional list into the policy will help the board monitor that the required in-service and training topics are being covered. While it is possible to *pick and choose*, this practice is likely to add more confusion to an already confusing responsibility. Unless noted, the School Code does not mandate the frequency with which the training must occur. Several other trainings that are mentioned in laws other than the School Code are addressed in other policies. Many of those policies are listed in the cross-references to this policy, e.g., training requirements under the Care of Students with Diabetes Act (105 ILCS 145/).

5 Different from the in-service training that school districts must provide to their staff, 105 ILCS 5/3-11, amended by P.A. 99-616, contains requirements that the regional superintendents must include during teachers institutes. Instruction on prevalent student chronic health conditions should have begun during school year 2009-2010. Educator ethics and teacher-student conduct training is also required (see also f/n 3 above discussing the board's requirement in Section 10-22.39). Beginning with the 2016-17 school year, teachers' institutes must also include instruction on the Americans with Disabilities Act (ADA) as it pertains to the school environment at least every two years. Contact the Regional Superintendent or the appropriate Intermediate Service Center with questions about online training for this component of a teachers' institute. Discuss with the board attorney the best practices of documenting trainings and evaluations of trainings; many attorneys in the field prefer documentation of ADA trainings to assist in their defense of any potential ADA claims against the district.

For districts that have a practice of providing instruction in life-saving techniques and first-aid in their staff development programs, insert the following optional paragraph that restates 105 ILCS 5/3-11, 105 ILCS 110/3, and 77 Ill.Admin.Code §527.800:

An opportunity shall be provided for all staff members to acquire, develop, and maintain the knowledge and skills necessary to properly administer life-saving techniques and first aid, including the Heimlich maneuver, cardiopulmonary resuscitation, and the use of an automated external defibrillator, in accordance with a nationally recognized certifying organization. Physical fitness facilities' staff must be trained in cardiopulmonary resuscitation and use of an automated external defibrillator.

Persons performing CPR are generally exempt from civil liability if they are trained in CPR (745 ILCS 49/10); persons performing automated external defibrillation are generally exempt from civil liability if they were trained and acted according to the standards of the American Heart Association (745 ILCS 49/12).

The board may also want to address other staff development opportunities. While not required to be policy, 105 ILCS 5/27-23.10 requires a school board to collaborate with State and local law enforcement agencies on gang resistance education and training. It also states that ISBE may assist in the development of instructional materials and teacher training for gang resistance education and training, which may be helpful to include in the staff development program. Other mandated and recommended staff development opportunities that are not located in the School Code or ISBE rules are found in the Ill. Administrative Code or federal regulations. Many of them are cross referenced in this policy.

6 Required by 105 ILCS 5/2-3.163, amended by P.A. 99-443.

- LEGAL REF.: 105 ILCS 5/2-3.62, 5/10-22.6(c-5), 5/10-22.39, 5/22-80(h), 5/10-23.12, 5/24-5, 25/1.15 and 110/3.
325 ILCS 5/4, Abused and Neglected Child Reporting Act.
745 ILCS 49/, Good Samaritan Act.
7 C.F.R. Part 210.
23 Ill.Admin.Code Part 525.
- CROSS REF.: 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 4:160 (Environmental Quality of Buildings and Grounds), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 5:120 (Ethics and Conduct), 5:250 (Leaves of Absence), 6:15 (School Accountability), 6:20 (School Year Calendar and Day), 6:160 (English Learners), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), [7:270 \(Administering Medicines to Students\)](#), 7:285 (Food Allergy Management Program), 7:290 (Suicide and Depression Awareness and Prevention), 7:305 (Student Athlete Concussions and Head Injuries)
- ADMIN PROC.: 4:160-AP (Environmental Quality of Buildings and Grounds), 4:170-AP6 (Plan for Responding to a Medical Emergency at an Indoor Physical Fitness Facility), 5:100-AP (Staff Development Program), 5:150-AP (Personnel Records), 6:120-AP4 (Care of Students with Diabetes), 7:250-AP1 (Measures to Control the Spread of Head Lice at School)

Comment [KAS1]: The policy, Cross References, and footnotes are updated in response to ongoing PRESS Advisory Board feedback. Footnote additions discuss this change, along with the Right to Privacy in the Workplace Act, 820 ILCS 55/10, amended by P.A. 99-610, eff. 1-1-17.

General Personnel

Personal Technology and Social Media; Usage and Conduct 1

Definitions

Includes - Means “includes without limitation” or “includes, but is not limited to.”

Social media - Media for social interaction, using highly accessible communication techniques through the use of web-based and mobile technologies to turn communication into interactive dialogue.² This includes, but is not limited to, services such as Facebook, LinkedIn, MySpace, Twitter, Instagram, Snapchat, and YouTube.³

Personal technology - Any device that is not owned or leased by the District or otherwise authorized for District use and: (1) transmits sounds, images, text, messages, videos, or electronic information, (2) electronically records, plays, or stores information, or (3) accesses the Internet, or private communication or information networks.⁴ This includes laptop computers (e.g., laptops, ultrabooks, and chromebooks), tablets (e.g., iPads®, Kindle®, Microsoft Surface®, and other Android® platform or Windows® devices), smartphones (e.g., iPhone®, BlackBerry®, Android® platform phones, and Windows Phone®), and other devices (e.g., iPod®).⁵

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

¹ This policy is optional. Consult the board attorney because personal technology and social media involve an unprecedented area of the law. Public employees’ First Amendment rights involve an unsettled area of the law. Personal technology and social media platforms change continually. Therefore, instead of prohibiting specific actions, this sample policy focuses on what will not change - maintaining appropriate behavior as outlined in 5:120, *Ethics and Conduct*, the Ill. Educators’ Code of Ethics at 23 Ill.Admin.Code §22.20, and 105 ILCS 5/21B-75 ~~by P.A. 97-607~~ (allows suspensions or revocations of certificates for *immorality* and *unprofessional conduct*, among other things). *Immoral* has been defined by one court to mean “shameless conduct showing moral indifference to the opinions of the good and respectable members of the community,” (see *Ahmad v. Board of Education of City of Chicago*, 847 N.E.2d 810, 819 (4th Dist. Ill. App. 1, 2006).

Consult the board attorney when a board wants to prohibit more specific actions and/or specific speech, e.g., *friending* students on Facebook or similar social media, *tweeting* or otherwise communicating with students on Twitter or similar social media sites, and text messaging or emailing students. See also the discussion in f/n 6 & 7 below.

This policy also contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. When a policy’s subject matter is superseded by a bargaining agreement, the board policy can state, “Please refer to the applicable collective bargaining agreement ~~current~~ [insert name of CBA].”

² Several definitions of social media exist, and a board may wish to use another definition or create its own with the board attorney. This sample policy’s definition is very broad. It is adapted from a frequently cited Wikipedia definition at en.wikipedia.org/wiki/Social_media. Merriam-Webster’s definition is at www.merriam-webster.com/dictionary/social%20.

³ Optional. A board may want to add other sites. As of October 2010, the publication *eBizMBA Inc.* lists the top ~~4~~^{four} social networking sites as Facebook, Myspace, Twitter, and LinkedIn, respectively.

⁴ *Personal technology* is not yet defined. It is the title of a weekly column in *The Wall Street Journal*. The column was created and is authored by Walt Mossberg, who frequently directs readers to his review of new technologies on a website titled *All Things Digital* at allthingsd.com/author/walt/. Many of the reviewed devices operate as described in this sample definition.

⁵ Optional.

Usage and Conduct ⁶

All District employees who use personal technology and social media shall: ⁷

1. Adhere to the high standards for appropriate school relationships required by policy 5:120, *Ethics and Conduct* at all times, regardless of the ever-changing social media and personal technology platforms available. This includes District employees posting images or private information about themselves or others in a manner readily accessible to students and other employees that is inappropriate as defined by policy 5:20, *Workplace Harassment Prohibited*; ~~5:100, *Staff Development Program*~~; 5:120, *Ethics and Conduct*; 6:235, *Access to Electronic Networks*; 7:20, *Harassment of Students Prohibited*; and the Ill. Code of Educator Ethics, 23 Ill.Admin.Code §22.20.
2. Choose a District-provided or supported method whenever possible to communicate with students and their parents/guardians.
3. Not interfere with or disrupt the educational or working environment, or the delivery of education or educational support services.
4. Comply with policy 5:130, *Responsibilities Concerning Internal Information*. This means that personal technology and social media may not be used to share, publish, or transmit information about or images of students and/or District employees without proper approval. For District employees, proper approval may include implied consent under the circumstances. ⁸
5. Refrain from using the District's logos without permission and follow Board policy 5:170, *Copyright*, and all District copyright compliance procedures. ⁹
6. Use personal technology and social media for personal purposes only during non-work times or hours. Any duty-free use must occur during times and places that the use will not interfere with job duties or otherwise be disruptive to the school environment or its operation. ¹⁰

Comment [KAS2]: PRESS subscriber feedback that this policy should cite 5:100, staff development because 105 ILCS 5/10-22.39(f) requires boards to at a minimum, once every two years, conduct an in-service training of all district staff on educator ethics, teacher-student conduct, and school employee-student conduct.

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

⁶ Whether to discipline an employee for his or her speech is always highly fact sensitive and should always occur after a consultation with the board attorney (see f/n 1 and 7). The discipline will require careful balancing of the district's obligations to protect its students with employees' rights. Further, a board may not discipline its employees for discussing the terms and conditions of their employment with co-workers and others or otherwise interfere with their employees' efforts to work to improve the terms and conditions of their workplace (29 U.S.C. §151 et seq.).

⁷ The following list is optional and may contain items on which collective bargaining may be required (see f/n 1). To ensure that the listed expectations match local conditions, boards may want to initiate a conversation with the superintendent about these expectations. Expectations will be most effective when they reflect local conditions and circumstances. This conversation provides an additional opportunity for the board and superintendent to examine all current policies, collective bargaining agreements, and administrative procedures applicable to this subject (see f/n 2 of policy 5:120, *Ethics and Conduct*, for more discussion about how to initiate this conversation and f/n 3 of policy 5:100, *Staff Development Program*). Employee conduct issues may be subjects of mandatory collective bargaining, therefore consulting the board attorney should be a part of this process. After discussing these issues, the board may have further expectations and may choose to reflect those expectations here.

⁸ Inherent dangers exist when district employees use personal technology and social media without understanding how the information is used within the chosen platform and what choices are available within the platform to control it. Some examples of laws that require the safekeeping of district and school records include: the Federal Educational Rights and Privacy Act, 20 U.S.C. §1232g and the Ill. School Student Records Act, 105 ILCS 10/ (both prohibit the unauthorized disclosure of student school records), 5 ILCS 140/7 (exempts personnel information and other items such as school security and response plans and maps from disclosure), 45 C.F.R. §164.502 (protects the employees' health information), and 820 ILCS 40/ (governs the release of an employee's disciplinary action). For district employees, implied consent may be sufficient in some circumstances, e.g., teachers taking pictures of each other at a birthday party in the teachers' lounge or at a social event off school grounds and later posting those pictures on Facebook.

⁹ 17 U.S.C. §101 et seq.

7. Assume all risks associated with the use of personal technology and social media at school or school-sponsored activities, including students' viewing of inappropriate Internet materials through the District employee's personal technology or social media. The Board expressly disclaims any responsibility for imposing content filters, blocking lists, or monitoring of its employees' personal technology and social media. ¹¹
8. Be subject to remedial and any other appropriate disciplinary action for violations of this policy ranging from prohibiting the employee from possessing or using any personal technology or social media at school to dismissal and/or indemnification of the District for any losses, costs, or damages, including reasonable attorney fees, incurred by the District relating to, or arising out of, any violation of this policy. ¹²

Comment [KAS3]: The second paragraph of this footnote is relocated to its own f/n 6, above.

The Superintendent shall: ¹³

1. Inform District employees about this policy during the in-service on educator ethics, teacher-student conduct, and school employee-student conduct required by Board policy 5:120, *Ethics and Conduct*.
2. Direct Building Principals to annually:
 - a. Provide their building staff with a copy of this policy.
 - b. Inform their building staff about the importance of maintaining high standards in their school relationships.
 - c. Remind their building staff that those who violate this policy will be subject to remedial and any other appropriate disciplinary action up to and including dismissal.

¹⁰ 105 ILCS 5/24-9; Fair Labor Standards Act, 29 U.S.C. §201 et seq. See also f/ns 1 and 6 above.

¹¹ The Children's Internet Protection Act (CIPA), 20 U.S.C. §630147 U.S.C. §254, requires school districts to maintain a policy and provide Internet access that protects against access to websites containing material that is obscene, pornographic, or harmful to minors. See 6:235, *Access to Electronic Networks*. Because a district cannot subject its employees' usage of personal technology and social media to the same measures required under CIPA (i.e., content filters, blocking lists, or district monitoring of Internet website traffic for patterns of usage that could indicate inappropriate network usage), this statement seeks to balance the district's duty by shifting responsibility for inappropriate behavior to the individual employee.

¹² The Ill. Human Rights Act makes it a civil rights violation to fail to take remedial action, or to fail to take appropriate disciplinary action against any employee, when the district knows that the employee committed or engaged in sexual harassment of a student (775 ILCS 5/5A-102). Sexual harassment of a student is also prohibited by 7:20, *Harassment of Student Prohibited*, and of an employee by 5:20, *Workplace Harassment Prohibited*.

~~Whether to discipline an employee for his or her speech is always highly fact sensitive and should always occur after a consultation with the board attorney (see f/ns 1 and 6). The discipline will require careful balancing of the District's obligations to protect its students with employees' rights. Further, a board may not discipline its employees for discussing the terms and conditions of their employment with co-workers and others or otherwise interfere with their employees' efforts to work to improve the terms and conditions of their workplace (29 U.S.C. §151 et seq).~~

¹³ 105 ILCS 5/10-16.7. The school board directs, through policy, the superintendent in his or her charge of the district's administration. One logical method for a board to address the issue of district employees' use of personal technology and social media is to include its expectations during its in-service trainings required by 105 ILCS 5/10-22.39. Many experts in social media risk management advocate training employees about the expectations concerning social media usage. For boards that do not want to include this as a part of the in-service, delete the phrase "during the in-service on educator ethics, teacher-student conduct, and school employee-student conduct required by Board policy 5:120, *Ethics and Conduct*."

Public employee First Amendment issues involve the balance between the importance of the speech and the district's interest in maintaining order and effective school operations. The First Amendment "does not entitle primary and secondary teachers, when conducting the education of captive audiences, to cover topics, or advocate viewpoints, that depart from the curriculum adopted by the school system." See Mayer v. Monroe County Community School Corp., 474 F.3d 477 (7th Cir. 2007). Nor is the First Amendment likely to entitle a teacher to protection for purely personal speech that does not touch on a matter of public concern. See Pickering v. High School Dist. 205, 391 U.S. 563 (1968). However, when public employees speak as private citizens on their own time about matters of public concern, they may face only those speech restrictions that are necessary for their employers to operate efficiently and effectively (Garcetti v. Ceballos, 547 U.S. 410 (2006)).

3. Build awareness of this policy with students, parents, and the community.
4. Ensure that no one for the District, or on its behalf, requests of an employee or applicant access in any manner to his or her social networking website or requests passwords to such sites. ¹⁴
5. Periodically review this policy and any procedures with District employee representatives and electronic network system administrator(s) and present proposed changes to the Board.

LEGAL REF.: 105 ILCS 5/21B-75 and 5/21B-80.
 Ill. Human Rights Act, 775 ILCS 5/5A-102.
 Code of Ethics for Ill. Educators, 23 Ill.Admin.Code §22.20.
Garcetti v. Ceballos, 547 U.S. 410 (2006).
Pickering v. High School Dist. 205, 391 U.S. 563 (1968).
Mayer v. Monroe County Community School Corp., 474 F.3d 477 (7th Cir. 2007).

CROSS REF.: 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria),
5:100 (Staff Development Program), 5:120 (Ethics and Conduct), 5:130
 (Responsibilities Concerning Internal Information), 5:150 (Personnel Records),
 5:170 (Copyright), 5:200 (Terms and Conditions of Employment and Dismissal),
 6:235 (Access to Electronic Networks), 7:20 (Harassment of Students
 Prohibited), 7:340 (Student Records)

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

¹⁴ Right to Privacy in the Workplace Act, 820 ILCS 55/10(b), ~~added by P.A. 97-875 and~~ amended by P.A. ~~98-50199-610, eff. 1-1-17~~ (also known as the *Facebook Password Law*). The exception for *professional accounts*, ~~added by P.A. 98-501~~, is unlikely to be available to school districts; see the explanation in ~~a footnote 15~~ in policy 5:30, *Hiring Process and Criteria*. The statute specifically permits an employer to: (1) maintain workplace policies governing the use of the employer's electronic equipment, including policies regarding Internet use, social networking site use, and electronic mail use; and (2) monitor usage of the employer's electronic equipment and electronic mail.

The statute ~~also states that it~~ does not prohibit an employer from (1) obtaining information about an applicant or an employee that is in the public domain or that is otherwise obtained in compliance with the statute, and (2) requesting or requiring an applicant or employee to share specific content that is reported to the employer to: (a) ensure compliance with laws and regulatory requirements, (b) investigate certain allegations as outlined in the law, and (c) prohibit certain outlined behaviors in the law. Finally, the statute does not apply to other types of personal technology that employees may use to communicate with students or other individuals, such as personal email or text messages on a personal phone. However, employers may access online accounts that the employer pays for or that an employee creates or maintains on behalf of the employer in connection with the employee's employment. Consult the board attorney about these issues.

Comment [KAS1]: No substantive policy changes. Minor terminology update in policy and throughout footnotes to match new regulatory language. Various citations and web links are cleaned up.

General Personnel

Family and Medical Leave ¹

Leave Description

An eligible employee may use unpaid family and medical leave (FMLA leave), guaranteed by the federal Family and Medical Leave Act. The U.S. Department of Labor's rules (federal rules) implementing FMLA, as they may be amended from time to time, control FMLA leave.

An eligible employee may take FMLA leave for up to a combined total of 12 weeks each 12-month period, beginning September 1 and ending August 31 of the next year. ²

During a single 12-month period, an eligible employee's FMLA leave entitlement may be extended to a total of 26 weeks of unpaid leave to care for a covered servicemember (defined in the federal rules) with a serious injury or illness. The "single 12-month period" is measured forward from the date the employee's first FMLA leave to care for the covered servicemember begins. ³

While FMLA leave is normally unpaid, the District will substitute an employee's accrued compensatory time-off and/or paid leave for unpaid FMLA leave.⁴ All policies and rules regarding the use of paid leave apply when paid leave is substituted for unpaid FMLA leave. Any substitution of paid leave for unpaid FMLA leave will count against the employee's FMLA leave entitlement. Use of FMLA leave shall not preclude the use of other applicable unpaid leave that will extend the

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¹ State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. This policy implements the very complex Family and Medical Leave Act, 29 U.S.C. §2612, (FMLA) and a school board is urged to have its attorney review it before adoption.

All public (and private) school employers are covered by the FMLA without regard to their number of employees (29 C.F.R. §§825.104 & 825.600). To be eligible for FMLA leave, however, an educational employee must be employed at a worksite where at least 50 employees are employed within 75 miles (29 C.F.R. §825.600).

The U.S. Department of Labor, Wage & Hour Division, has a very helpful website containing forms, compliance guidance, posters, etc. (www.dol.gov/whd/fmla). It also contains a link to the complete FMLA rules, 29 C.F.R. Part 825.

² 29 C.F.R. §825.200 lists and explains the four methods boards may choose among for determining a 12-month period in which the 12-week entitlement occurs. While using a school year may be the easiest method to administer, **another method may be more suitable for the district**. Before changing to a different method of calculating the 12-month period, an employer must first give all employees at least 60-days' notice of the intended change; the transition must take place in such a way that the employees retain the full benefit of their leave entitlement under whichever method affords the greatest benefit to the employee. If the district fails to select an option, the one that provides the most beneficial outcome for employees will be used.

³ 29 C.F.R. §825. Section 585 of the National Defense Authorization Act for FY 2008, Pub. L. 110-181, added two types of family military leave – qualifying exigency leave and ~~military caregiver leave~~ servicemember family leave. The latter leave extends the possible FMLA leave to 26 weeks in a *single 12-month period*. For more information, see f/n 6.

⁴ This paragraph presents only one of many possible alternatives. The FMLA permits an employee to choose to substitute paid leave for FMLA leave, and an employer to require an employee to substitute paid leave for FMLA leave (29 C.F.R. §825.207). Substitution of paid leave for FMLA purposes means that the unpaid FMLA leave and the paid leave run concurrently. The sample policy, in the interests of clarity and limiting absences, requires this substitution. Likewise, an employer may require an employee to substitute accrued comp time against the employee's FMLA leave entitlement (29 C.F.R. §825.207(f)). Sample policy 5:310, *Compensatory Time-Off*, addresses the acquisition and use of comp time. The FMLA rules also describe the interaction between FMLA leave and leave taken pursuant to a disability plan and workers' compensation leave (29 C.F.R. §825.207(d) & (e)).

If employees have not previously been required to substitute accrued paid leave, this requirement's implementation may give rise to a duty to bargain because it affects the mandatory bargaining subject of employee paid leave.

employee's leave beyond 12 weeks, provided that the use of FMLA leave shall not serve to extend such other unpaid leave. Any full workweek period during which the employee would not have been required to work, including summer break, winter break and spring break, is not counted against the employee's FMLA leave entitlement. ⁵

FMLA leave is available in one or more of the following instances: ⁶

1. The birth and first-year care of a son or daughter.
2. The adoption or foster placement of a son or daughter, including absences from work that are necessary for the adoption or foster care to proceed and expiring at the end of the 12-month period beginning on the placement date.
3. The serious health condition of an employee's spouse, child, or parent.
4. The employee's own serious health condition that makes the employee unable to perform the functions of his or her job.
5. The existence of a qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a military member on covered active duty or has been notified of an impending call or order to active duty, as provided by federal rules.
6. To care for the employee's spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness, as provided by federal rules.

If spouses are employed by the District, they may together take only 12-weeks for FMLA leaves when the reason for the leave is 1 or 2, above, or to care for a parent with a serious health condition, or a combined total of 26 weeks for item 6 above. ⁷

An employee may be permitted to work on an intermittent or reduced-leave schedule in accordance with federal rules. ⁸

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⁵ 29 C.F.R. §825.200(h). If a holiday occurs within the week taken as FMLA leave, the week is still counted as a week of FMLA leave. However, if an employee is using FMLA leave in increments of less than one week, the holiday will not count against the employee's FMLA entitlement.

⁶ 29 C.F.R. §§825.112 & 825.200. See §§825.120 & 825.121 for birth or placement for adoption or foster care. [Spouse includes an individual in a same-sex or common law marriage that either: \(1\) was entered into in a state that recognizes such marriages; or \(2\) if entered into outside of any state, is valid in the place where entered into and could have been entered into in at least one state \(29 C.F.R. §§825.102 and 825.122\(b\)\). See also Obergefell v. Hodges, 135 S.Ct. 2584 \(2015\).](#)

Leave for a qualifying exigency (reason number 5) is governed by 29 C.F.R. §§825.122 (definition) & 825.126.

Leave to care for a covered servicemember (reason number 6) is governed by 29 C.F.R. §§825.122 (definition) & 825.127. An eligible employee may take 26 weeks of leave in different "single 12-month periods" to care for multiple servicemembers or to care for the same servicemember with a subsequent serious injury or illness (29 C.F.R. §825.127).

Attorneys disagree whether the Illinois Family Military Leave Act, 820 ILCS 151/, applies to schools because its definition of *employer* does not specify school districts. A covered employer must allow a spouse, parent, child, or grandparent of a person called to military service to take an unpaid leave of 15 or 30 days, depending on the number of individuals employed by the employer ([Id. at 151/10\(a\)-\(b\)](#)). The length of leave provided to an employee under State law because his or her spouse or child is called to military service is reduced by the number of days of leave provided under 29 U.S.C. §2612(a)(1)(E) because of any qualifying exigency arising out of the fact that the employee's spouse or child is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces (820 ILCS 151/10(b)).

⁷ 29 C.F.R. §§825.120(a)(3) ([birth](#)) & 825.121(a)(3) ([adoption and foster care](#)).

⁸ 29 C.F.R. §§825.121(b), 825.202 - 825.205 & 825.601.

Eligibility ⁹

To be eligible for FMLA leave, an employee must be employed at a worksite where at least 50 employees are employed within 75 miles. In addition, one of the following provisions must describe the employee:

1. The employee has been employed by the District for at least 12 months and has been employed for at least 1,250 hours of service during the 12-month period immediately before the beginning of the leave. The 12 months an employee must have been employed by the District need not be consecutive. However, the District will not consider any period of previous employment that occurred more than ~~7~~^{seven} years before the date of the most recent hiring, except when the service break is due to [fulfillment of a covered service obligation under the employee's Uniformed Services Employment and Reemployment Rights Act \(USERRA\), 38 U.S.C. 4301, et seq., National Guard or Reserve military service](#) or when a written agreement exists concerning the District's intention to rehire the employee.
2. The employee is a full-time classroom teacher.

Requesting Leave ¹⁰

If the need for the FMLA leave is foreseeable, an employee must provide the Superintendent or designee with at least 30 days' advance notice before the leave is to begin. If 30 days' advance notice is not practicable, the notice must be given as soon as practicable. The employee shall make a reasonable effort to schedule a planned medical treatment so as not to disrupt the District's operations, subject to the approval of the health care provider administering the treatment. The employee shall provide at least verbal notice sufficient to make the Superintendent or designee aware that he or she needs FMLA leave, and the anticipated timing and duration of the leave. Failure to give the required notice for a foreseeable leave may result in a delay in granting the requested leave until at least 30 days after the date the employee provides notice.

Certification ¹¹

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

⁹ 29 C.F.R. §§825.110, 825.111, & 825.600. **The default policy language exceeds federal law requirements because it provides immediate eligibility to full-time classroom teachers.** A board may substitute the following to deny eligibility to classroom teachers who have not worked 12 months for the district, but it should first analyze collective bargaining consequences and seek its board attorney's advice:

To be eligible for FMLA leave, both of the following provisions must describe the employee:

1. The employee is employed at a worksite where at least 50 employees are employed within 75 miles; and
2. The employee has been employed by the District for at least 12 months and has been employed for at least 1,250 hours of service during the 12-month period immediately before the beginning of the leave. The 12 months an employee must have been employed by the District need not be consecutive. However, the District will not consider any period of previous employment that occurred more than 7 years before the date of the most recent hiring, except when the service break is due to ~~National Guard or Reserve military service~~[fulfillment of a covered service obligation under the employee's Uniformed Services Employment and Reemployment Rights Act \(USERRA\), 38 U.S.C. 4301, et seq.,](#) or when a written agreement exists concerning the District's intention to rehire the employee.

[A service break due to fulfillment of covered service obligation is found in the *Glossary of Terms Used in FMLA* available at: \[webapps.dol.gov/elaws/whd/fmla/3.aspx?Glossary_Word=ELIGIBLE\]\(http://webapps.dol.gov/elaws/whd/fmla/3.aspx?Glossary_Word=ELIGIBLE\).](#)

An employee's eligibility requires analysis of the information available in each case using the guidance in §825.110. Any week during which an employee is maintained on the payroll, even if the employee does not work that week, is counted toward the 12-months' service requirement (*Id.* at 825.110(b)(3)).

¹⁰ 29 C.F.R. §§825.302-825.304 require an employee to notify the employer of the need for leave and to generally schedule leave for planned medical treatments in a way that the absences do not unduly disrupt the employer's operations. The policy's notice provisions are the shortest time frame allowable (29 C.F.R. §825.302). The employee need not expressly request a leave under the FMLA. An employer may require that employees follow its usual and customary notice and procedural requirements for requesting leave.

Within 15 calendar days after the Superintendent or designee makes a request for certification for a FMLA leave, an employee must provide one of the following:

1. When the leave is to care for the employee's covered family member with a serious health condition, the employee must provide a complete and sufficient certificate signed by the family member's health care provider.
2. When the leave is due to the employee's own serious health condition, the employee must provide a complete and sufficient certificate signed by the employee's health care provider.
3. When the leave is to care for a covered servicemember with a serious illness or injury, the employee must provide a complete and sufficient certificate signed by an authorized health care provider for the covered servicemember.
4. When the leave is because of a qualified exigency, the employee must provide: (a) a copy of the covered military member's active duty orders or other documentation issued by the military indicating that the military member is on active duty or call to active duty status, and the dates of the covered military member's active duty service, and (b) a statement or description, signed by the employee, of appropriate facts regarding the qualifying exigency for which FMLA leave is requested.

The District may require an employee to obtain a second and third opinion at its expense when it has reason to doubt the validity of a medical certification.

The District may require recertification at reasonable intervals, but not more often than once every 30 days. Regardless of the length of time since the last request, the District may request recertification when the, (1) employee requests a leave extension, (2) circumstances described by the original certification change significantly, or (3) District receives information that casts doubt upon the continuing validity of the original certification. Recertification is at the employee's expense and must be provided to the District within 15 calendar days after the request. The District may request recertification every ~~six~~ months in connection with any absence by an employee needing an intermittent or reduced schedule leave for conditions with a duration in excess of ~~six~~ months.

Failure to furnish a complete and sufficient certification on forms provided by the District may result in a denial of the leave request.

Continuation of Health Benefits ¹²

During FMLA leave, employees are entitled to continuation of health benefits that would have been provided if they were working. Any share of health plan premiums being paid by the employee before taking the leave, must continue to be paid by the employee during the FMLA leave. A District's obligation to maintain health insurance coverage ceases if an employee's premium payment is more than 30 days late and the District notifies the employee at least 15 days before coverage will cease.

¹¹ Requests for medical certification, 2nd and 3rd opinions, and recertification are governed by 29 C.F.R. §§825.305-825.310. The appropriate certification forms are available at www.dol.gov/WHD/fmla. Districts must inform the employee of the medical certification requirement and of the consequences for failing to provide it.

¹² Required by 29 C.F.R. §825.209. The same health benefits means, for example, that if family member coverage is provided to an employee, family member coverage must be maintained during FMLA leave. If an employer provides a new health plan or benefits or changes health benefits or plans while an employee is on FMLA leave, the employee is entitled to the new or changed plan or benefits to the same extent as if the employee were not on leave. *Health benefits* do not include individual policies paid exclusively by the employee. Districts must provide an advance written description of how premium payments must be made (29 C.F.R. §825.210). [See fn 1, above.](#) [Consult the board attorney about whether any existing collective bargaining agreements alter a district's obligation to continue health benefits even after exhaustion of FMLA.](#)

If coverage lapses because an employee has not made required premium payments, the employer must still restore the employee to coverage and benefits when the employee returns from leave (29 C.F.R. §825.212). 29 C.F.R. §825.213 governs how districts may recover premium payments if the employee fails to return to work after the leave entitlement is exhausted or expires. The board attorney must be consulted for the appropriate premium recovery method.

Changed Circumstances and Intent to Return ¹³

An employee must provide the Superintendent or designee reasonable notice of changed circumstances (i.e., within ~~two~~ business days if the changed circumstances are foreseeable) that will alter the duration of the FMLA leave. The Superintendent or designee, taking into consideration all of the relevant facts and circumstances related to an individual's leave situation, may ask an employee who has been on FMLA leave for ~~eight~~ consecutive weeks whether he or she intends to return to work.

Return to Work

If returning from FMLA leave occasioned by the employee's own serious health condition, the employee is required to obtain and present certification from the employee's health care provider that he or she is able to resume work. ¹⁴

An employee returning from FMLA leave will be given an equivalent position to his or her position before the leave, subject to: (1) permissible limitations the District may impose as provided in the FMLA or implementing regulations, and (2) the District's reassignment policies and practices. ¹⁵

Classroom teachers may be required to wait to return to work until the next semester in certain situations as provided by the FMLA regulations. ¹⁶

Implementation

The Superintendent or designee shall ensure that: (1) all required notices and responses to leave requests are provided to employees in accordance with the FMLA;¹⁷ and (2) this policy is implemented in accordance with the FMLA. In the event of a conflict between the policy and the FMLA or its regulations, the latter shall control. The terms used in this policy shall be defined as in the FMLA regulations. ¹⁸

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

¹³ This section is optional but allowed by 29 C.F.R. §825.311. Either or both sentences may be changed or omitted, provided the policy is applied uniformly.

¹⁴ Requiring *fitness for duty* certification is optional but allowed by 29 C.F.R. §825.312. This sentence may be deleted or changed in accordance with the rule.

¹⁵ 29 C.F.R. §§825.214 - 825.216 & 825.604. An equivalent position must have the same pay (including any unconditional pay increases), benefits, and working conditions and involve the same or substantially similar duties (29 C.F.R. §825.215). Determining how an employee will be restored to an *equivalent position* is made on the basis of "established policies and practices" and collective bargaining agreements (29 C.F.R. §825.604).

¹⁶ Optional but allowed by 29 C.F.R. §825.602.

¹⁷ School districts must provide employees a general notice explaining the FMLA and the process for filing complaints (29 C.F.R. §825.300(a)). This notice must also be provided to FMLA-covered employees; distribution may be accomplished electronically. A poster is available at www.dol.gov/WHD/fmla, [The Family and Medical Leave Act Poster](#).

When an employee requests FMLA leave or when the employer acquires knowledge that an employee's leave may be for a FMLA-qualifying reason, the employer must provide the employee with a notice of eligibility (within 5 business days absent extenuating circumstances) (29 C.F.R. §825.300(b)). At the same time, the employer must provide the employee with a notice of rights and responsibilities (29 C.F.R. §825.300(c)). Finally, the employer must notify the employee whether it has designated the leave as FMLA-qualifying (29 C.F.R. §825.300(d)). The federal rules contain specific requirements for each of these notices. Fortunately, a prototype for each of these required notices is available at www.dol.gov/WHD/fmla (*WH-381 Notice of Eligibility and Rights & Responsibilities* and *WH-382 Designation Notice*). Willfully failing to provide the notices can subject an employer to a monetary penalty.

¹⁸ 29 C.F.R. §825.102.

LEGAL REF.: Family and Medical Leave Act, 29 U.S.C. §2601 et seq., 29 C.F.R. Part 825.

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:250 (Leaves of Absence),
5:310 (Compensatory Time-Off), 5:330 (Sick Days, Vacation, Holidays, and
Leaves)

Comment [KAS1]: Policy, Legal References, and footnotes are updated to align with current teacher qualification requirements under ESEA, as amended by ESSA, and to delete former NCLB references that teachers be *highly qualified*.

Professional Personnel

Teacher Qualifications ¹

A teacher, as the term is used in this policy, refers to a District employee who is required to be licensed under State law.² The following qualifications apply:

1. Each teacher must:
 - a. Have a valid Illinois Professional Educator License issued by the State Superintendent of Education with the required endorsements as provided in the School Code.
 - b. Provide the District Office with a complete transcript of credits earned in institutions of higher education.
 - c. On or before September 1 of each year, unless otherwise provided in an applicable collective bargaining agreement, provide the District Office with a transcript of any credits earned since the date the last transcript was filed.
 - d. Notify the Superintendent of any change in the teacher's transcript.
2. All teachers working in a program supported with federal funds under Title I, Part A must meet applicable State certification and licensure requirements with primary responsibility for instructing students in the core academic subject areas (science, the arts, reading or language arts, English, history, civics and government, economics, geography, foreign language, and

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

² ~~105 ILCS 5/21B et seq.; 23 Ill.Admin. Code §1.610 et seq., §1.705 et seq. and Part 25, P.A. 97-607 repealed 105 ILCS 5/21-0.01 et seq. and added Article 21B titled *Educator Licensure* to the School Code, 23 Ill.Admin.Code §1.610 et seq. still refers to this repealed section of the School Code, 23 Ill.Admin.Code §1.705 et seq. still refers to *certification*, and Part 25 continues to incorporate P.A. 97-607. This law changed teacher *certification* to *educator licensure* as of July 1, 2013. ISBE's proposal to amend these rules is pending as of Feb. 2014. When the licensure system became operational, all certified employees automatically transitioned to the corresponding licensure.~~

School boards may participate in the Illinois Teacher Corps; however as of Sept. 1, 2011 individuals may no longer be admitted to Illinois Teacher Corps programs (105 ILCS 5/21-11.4, ~~amended by P.A. 97-607 and repealed on June 30, 2013~~).

³ Subparagraph 1a is required for all teachers by 105 ILCS 5/21B-15, ~~added by P.A. 97-607 (professional educator licenses/qualifications of educators). See P'n 2 above.~~ Three types of educator licenses are listed in 105 ILCS 5/21B-20: (1) Professional Educator License; (2) Educator License with Stipulations (including endorsements for provisional educator, alternative provisional educator, alternative provisional superintendent, resident teacher, career and technical educator, provisional career and technical educator, transitional bilingual educator, language, visiting international educator, paraprofessional educator, and chief school business official); and (3) Substitute Teaching License, ~~added by P.A. 97-607.~~ See also 23 Ill.Admin.Code §1.610 et seq., §1.705 et seq. and Part 25 (per §25.100, teachers are no longer ~~certified/endorsed~~ in any course subjects in which they earn grades lower than a "C" in college), ~~although some of the rules refer to repealed sections of the School Code. Note that part-time provisional certificates issued to professionals and craftsmen are no longer issued (105 ILCS 5/21-10, amended by P.A. 97-607 and repealed on June 20, 2013).~~ ISBE's *Educator Licensure Information System* (ELIS) is a web-based system that allows educators, administrators, and the public to access licensure information. See www.isbe.state.il.us/ELIS/default.htm.

~~Contact ISBE with all licensure questions during this time of implementation of the new Article 21B, added by P.A. 97-607.~~

Subparagraph 1b and 1c are required of all teachers by 105 ILCS 5/24-23. Some boards add the word "official" to the phrase, "complete official transcript of credits."

Subparagraph 1d is optional but informs the superintendent when a teacher may be eligible to ~~should~~ change lanes on the salary schedule.

~~mathematics) must be highly qualified for those assignments as determined by State and federal law. 4~~

The Superintendent or designee shall:

1. Monitor compliance with State and federal law requirements that teachers be appropriately licensed ~~and highly qualified for their assignments;~~ 5
2. Through incentives for voluntary transfers, professional development, recruiting programs, or other effective strategies, ensure that minority students and students from low-income families are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers; and 6
3. Ensure parents/guardians of students in schools receiving Title I funds are notified: ~~(a) of their right to request their students' classroom teachers' professional qualifications, and (b) whenever their child is assigned to, or has been taught for 4 or more consecutive weeks by, a teacher who is not highly qualified.~~ 7

LEGAL REF.: 20 U.S.C. §6319~~2(e)(1)(A).~~
~~34 C.F.R. §200.55, 56, 57, and 61.~~
105 ILCS 5/10-20.15, 5/21-11.4, ~~5/21B-15,~~ 5/21B-20, ~~5/21B-25,~~ and 5/24-23.
23 Ill.Admin.Code §1.610 et seq., §1.705 et seq., and Part 25.

CROSS REF.: 6:170 (Title I Programs)

Comment [MB2]: Still exist but have not been updated yet to align with ESEA as amended by ESSA, and no NPRM pending. We will continue to cite them, if appropriate, and note the discrepancy in a f/n, e.g. "Statute underlying these regulations has been repealed; amendments to regulations are highly likely within the next year."

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

~~4 The highly qualified teacher requirement of the No Child Left Behind Act, formerly found in §6319 of the Elementary and Secondary Education Act (ESEA, 20 U.S.C. §6319), was repealed by the Every Student Succeeds Act (ESSA, Pub. L. 114-95, eff. 12-10-15). ESEA federal and State implementing regulations at 34 C.F.R. §200.55 and 23 Ill. Admin.Code Part 25, Appendix D have not been updated, though amendments are highly likely within the next year. In Every Student Succeeds Act (ESSA) Frequently Asked Questions (8.12.16) (isbe.net/essa/pdf/ESSA-faq.pdf), ISBE advises that districts need not comply with the "highly qualified" teacher requirement during the 2016-17 school year. ISBE's website contains numerous resources on highly qualified requirements and determinations; see www.isbe.net/nclb/htmls/edquality.htm.~~

~~ESEA, as amended by ESSA, requires that each state plan contain assurances that the state educational agency will ensure that all teachers and paraprofessionals meet state certification/licensure requirements (20 U.S.C. §6311(e)(2)(J)).~~

~~5 20 U.S.C. §6319(a)(3); 34 C.F.R. §200.57(b). ISBE advises that effective July 1, 2016, teachers and paraprofessionals must meet state and local licensure requirements found in Illinois Licensure, Endorsement, and Approval Requirements, revised 8-25-16, at www.isbe.net/licensure/requirements/endsmt_struct.pdf.~~

~~ESEA, as amended by ESSA, requires districts to provide parents timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable State certification or licensure requirements at the grade level and subject area in which the teacher has been assigned (20 U.S.C. §6312(e)(1)(B)(ii)). For a sample notice, see 5:190-E2, Notice to Parents When Their Child Is Assigned To or Has Been Taught for at Least Four Straight Weeks By a Teacher Who Does Not Meet Applicable State Certification/Licensure Requirements.~~

~~6 34 C.F.R. §200.57(b)(2).~~

~~7 20 U.S.C. §6312(e)(1)(A)+(b)(6); 34 C.F.R. §200.61.~~

Professional Personnel

Leaves of Absence ¹

Each of the provisions in this policy applies to all professional personnel to the extent that it does not conflict with an applicable collective bargaining agreement or individual employment contract or benefit plan; in the event of a conflict, such provision is severable and the applicable bargaining agreement or individual agreement will control.

Sick and Bereavement Leave ²

Each full-time professional staff member is granted 10 days sick leave each school year at full pay. Unused days are allowed to accumulate to 180 days. Sick leave is defined in State law as personal illness, quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, or placement for adoption.

As a condition for paying sick leave after 3 days absence for personal illness or 30 days for birth or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may require that the staff member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, (2) a chiropractic physician licensed under the Medical Practice Act, (3) an advanced practice nurse who has a written collaborative agreement with a

Comment [KAS1]: The policy, Legal References, and footnotes are updated to address the Child Bereavement Leave Act, 820 ILCS 154/, added by P.A. 99-703 and the Employee Sick Leave Act 820 ILCS 191/, added by P.A. 99-841, eff. 1-1-17.

Comment [KAS2]: Employee Sick Leave Act 820 ILCS 191/, added by P.A. 99-841, eff. 1-1-17.

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

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

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. It also provides policy coverage for those professional personnel who are not included in a bargaining unit or have employment contracts with conflicting provisions. Alternatively, if the policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the current *[insert name of professional CBA]*."

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA), 29 U.S.C. §2612, amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (1) the birth and first-year care of a child, (2) the adoption or foster placement of a child, (3) the serious health condition of an employee's spouse, parent, or child, (4) the employee's own serious health condition, (5) the existence of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on *covered active duty*, and (6) to care for the employee's spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness. Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee's FMLA entitlement (29 C.F.R. §825.207). See policy 5:185, *Family and Medical Leave*.

A plethora of State laws grant leaves to employees of the State and municipalities but are not applicable to school districts, including the Employee Blood Donation Leave Act (820 ILCS 149/), Local Government Disaster Service Volunteer Act (50 ILCS 122/), Organ Donor Leave Act (5 ILCS 327/), and Civil Air Patrol Leave Act (820 ILCS 148/).

² The provisions in this section are required by 105 ILCS 5/24-6. Each specified number of days in this section is the statutory minimum. Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements.

[Consult the board attorney about the Employee Sick Leave Act 820 ILCS 191/, added by P.A. 99-841, eff. 1-1-17. It prohibits employers from limiting the use of sick time to an employee's own illnesses and allows employees to use employer-provided sick leave to care for an ill or injured family member or to attend a medical appointment with a family member. The law defines family members as a child \(biological, adopted, stepchild, or legal ward\), spouse, domestic partner, sibling, parent, mother- or father-in-law, grandchild, grandparent, or stepparent \(Id. at 191/10\(b\)\). Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury.](#)

collaborating physician that authorizes the advanced practice nurse to perform health examinations, (4) a physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (5) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than 3 days for personal illness, the District shall pay the expenses incurred by the employee.

The use of paid sick leave for adoption or placement for adoption is limited to 30 days unless a longer leave is provided in an applicable collective bargaining agreement. The Superintendent may require that the employee provide evidence that the formal adoption process is underway. ³

Child Bereavement Leave ⁴

State law allows a maximum of 10 unpaid work days for eligible employees (Family and Medical Leave Act of 1993, 20 U.S.C. §2601 et seq.) to take child bereavement leave. The purpose, requirements, scheduling, and all other terms of the leave are governed by the Child Bereavement Leave Act. Child bereavement leave allows for: (1) attendance by the bereaved staff member at the funeral or alternative to a funeral of his or her child, (2) making arrangements necessitated by the death of the staff member's child, or (3) grieving the death of the staff member's child, without any adverse employment action.

The leave must be completed within 60 days after the date on which the employee received notice of the death of his or her child. However, in the event of the death of more than one child in a 12-month period, an employee is entitled to up to a total of six weeks of bereavement leave during the 12-month period, subject to certain restrictions under State and federal law. Other existing forms of leave may be substituted for the leave provided in the Child Bereavement Leave Act. This policy does not create any right for an employee to take child bereavement leave that is inconsistent with the Child Bereavement Leave Act.

Sabbatical Leave ⁵

Sabbatical leave may be granted in accordance with the School Code.

Personal Leave ⁶

Professional staff members are granted one personal leave day per year. A personal leave day is defined as a day to allow professional personnel time to conduct personal business (but not vacation, travel, or work stoppage), which is impossible to schedule at a time other than during a school day. Any unused personal leave day in a school year will be credited to the cumulative sick leave.

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

³ 105 ILCS 5/24-6.

⁴ Child Bereavement Leave Act (Act), 820 ILCS 154/, added by P.A. 99-703. These paragraphs discuss child bereavement leave. 820 ILCS 154/5, added by P.A. 99-703 defines an *eligible employee* under the same terms as an employee under FMLA (29 U.S.C. 2601 et seq.). See f/n 1 above.

The Act also provides that the leave must be completed within 60 days of the employee learning of the death of his or her child, as defined by 820 ILCS 154/, added by P.A. 99-703. However, that 60 day limitation does not apply where more than one child dies in a 12-month period. There may be times where an employer may want to grant more than 10 unpaid work days, e.g., when a deceased child lived in a foreign country, etc. Consult the board attorney to resolve the complexities of determining whether an employee is an eligible employee under the FMLA that would trigger this Act.

⁵ State law provides guidelines for sabbatical leaves but does not require boards to offer them (105 ILCS 5/24-6.1).

⁶ State law does not address personal leave.

Comment [KAS3]: The Child Bereavement Leave Act is managed here to acknowledge that it exists, but that requests will be governed by the law. Footnotes explain that to trigger the Act, an employee requesting the leave must be an eligible employee under FMLA.

Comment [KAS4]: P.A. 99-703 requires employers to offer this unpaid leave.

The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, personal leave requests should be submitted to the Building Principal 3 days in advance of the requested date,
2. No personal leave days may be used immediately before or immediately after a holiday unless the Superintendent grants prior approval,
3. Personal leave may not be used in increments of less than one-half day,
4. Personal leave days are subject to a substitute's availability,
5. Personal leave days may not be used during the first and/or last 5 days of the school year,
6. Personal leave days may not be used on in-service and/or institute training days, and
7. Personal leave may not be used by more than 10% of the teaching staff in each building at the same time.

Leave of Absence Without Pay 7

The Board may grant a leave of absence without pay to tenured professional staff members who have rendered satisfactory service and desire to return to employment in a similar capacity at a time determined by the Board.

Each leave of absence shall be of the shortest possible duration required to meet the leave's purpose consistent with a reasonable continuity of instruction for students.

Leave to Serve as an Election Judge 8

Any staff member who was appointed to serve as an election judge under State law may, after giving at least 20-days' written notice to the District, be absent without pay for the purpose of serving as an election judge. The staff member is not required to use any form of paid leave to serve as an election judge. No more than 10% of the District's employees may be absent to serve as election judges on the same election day.

Child-Rearing Leave 9

The Board shall grant a professional staff member's request for a non-paid, child-rearing leave, not to exceed the balance of the school year plus one additional school year (but in no event shall such leave

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

⁷ State law does not address leaves of absence without pay other than stating that a mutually agreed leave will not affect a teacher's contractual continued service (105 ILCS 5/24-13).

⁸ This paragraph restates 10 ILCS 5/13-2.5, amended by P.A. 98-691. The statute does not state whether the notice requirement is *calendar* days or *business* days. Support for it being *calendar* days is found in 10 ILCS 5/1-6; support for it being *business* days is found in 10 ILCS 5/1-3.

Rather than duplicate the statute's requirements in separate policies, board policy 5:330, *Educational Support Personnel - Sick Days, Vacation, Holidays, and Leaves*, grants the leave to support personnel on the terms applicable to professional staff.

⁹ The School Code does not address child-rearing. The Family and Medical Leave Act (FMLA), 29 U.S.C. §2612, 29 C.F.R. §825.200, grants eligible employees a combined total of 12 weeks each year, with exceptions for teachers at the end of the school year, for, among other things, a child's: (1) birth and first-year care, and (2) adoption or foster placement (see policy 5:185, *Family and Medical Leave*). Districts not covered by the FMLA must treat a request for child-care leave to care for an adopted infant on terms comparable to those given biological mothers. *McWright v. Alexander*, 982 F.2d 222 (7th Cir., 1993).

exceed 3 semesters), provided the request complies with this policy. Nothing in this section shall prohibit a professional staff member from using paid sick days as provided in this policy. **10**

A teacher must request, if possible, a child-rearing leave by notifying the Superintendent in writing no later than 90 days before the requested leave's beginning date.¹¹ The request should include the proposed leave dates. The leave shall end before a new school year begins or before the first day of school after winter recess. **12**

Subject to the insurance carrier's approval, the teacher may maintain insurance benefits at his or her own expense during a child-rearing leave.

A professional staff member desiring to return before the leave's expiration will be assigned to an available vacancy for which the teacher is qualified, subject to scheduling efficiency and instruction continuity.

Leaves for Service in the Military **13**

Leaves for service in the U.S. Armed Services or any of its reserve components and the National Guard, as well as re-employment rights, will be granted in accordance with State and federal law. A professional staff member hired to replace one in military service does not acquire tenure.

General Assembly Leave **14**

Leaves for service in the General Assembly, as well as re-employment rights, will be granted in accordance with State and federal law. A professional staff member hired to replace one in the General Assembly does not acquire tenure.

Leave for Employment in Department of Defense **15**

The Board may grant teachers a leave of absence to accept employment in a Department of Defense overseas school.

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

10 Districts offering a child-rearing or maternity leave must be very careful not to violate anti-discrimination laws. Districts can prohibit pregnant teachers from combining paid disability leave with an unpaid maternity leave, provided that non-pregnant teachers are likewise prohibited from combining a paid disability leave with an unpaid general leave of absence. Maganuco v. Leyden Comm. High School Dist. 212, 939 F.2d 440 (7th Cir., 1991); U.S. v. Consol. High School Dist. 230, 983 F.2d 790 (7th Cir., 1993); E.E.O.C. v. Elgin Teachers' Ass'n., 780 F.Supp. 1195 (N.D.Ill., 1991). A sick leave bank exclusion of maternity benefits violates Title VII. U.S. v. Consol. High School Dist. 230, Supra.

11 The length of the notice - here 90 days - is *not* covered by State or federal law. If an employee fails to provide this notice, the employee still has the right to request a family and medical leave which has a much shorter notice requirement (see policy 5:185, *Family and Medical Leave*), and could be followed by a child-rearing leave.

12 For a high school, omit "the first day of school after winter recess" and insert "at the semester break." Alternatively, the board may want to be more flexible by stating:

Every effort shall be made to have the leave minimally interrupt instructional continuity by ending . . .

13 Required by: the School Code (105 ILCS 5/10-20.7b, 5/24-13, and 5/24-13.1); the Military Leave of Absence Act (5 ILCS 325/), added mandatory leave for "other training or duty required by the United States Armed Forces" and requires the public employer to make up the difference between military pay and regular compensation); Service Member's Employment Tenure Act (330 ILCS 60/4); Public Employee Armed Services Rights Act (5 ILCS 330/4); National Guard Employment Rights (20 ILCS 1805/30.20); and Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301).

14 Required by 105 ILCS 5/24-13.

15 State law provides guidelines for Dept of Defense leaves but does not require boards to offer them (105 ILCS 5/24-13.1).

School Visitation Leave

An eligible professional staff member is entitled to 8 hours during any school year, no more than 4 hours of which may be taken on any given day, to attend school conferences or classroom activities related to the teacher's child, if the conference or activity cannot be scheduled during non-work hours.¹⁶ Professional staff members must first use all accrued vacation leave, personal leave, compensatory leave, and any other leave that may be granted to the professional staff member, except sick, and disability leave. ¹⁷

The Superintendent shall develop administrative procedures implementing this policy consistent with the School Visitation Rights Act. ¹⁸

Leaves for Victims of Domestic or Sexual Violence ¹⁹

An unpaid leave from work is available to any staff member who: (1) is a victim of domestic or sexual violence, or (2) has a family or household member who is a victim of domestic or sexual violence whose interests are not adverse to the employee as it relates to the domestic or sexual violence. The unpaid leave allows the employee to seek medical help, legal assistance, counseling, safety planning, and other assistance without suffering adverse employment action.

The Victims' Economic Security and Safety Act governs the purpose, requirements, scheduling, and continuity of benefits, and all other terms of the leave. Accordingly, if the District employs at least 50 employees, an employee is entitled to a total of 12 work weeks of unpaid leave during any 12-month period.²⁰ Neither the law nor this policy creates a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. §2601 et seq.). ²¹

Comment [KAS5]: P.A. 99-765 added some more categories of employer sizes that trigger available work weeks of leave to an employee. These options are managed in the footnotes.

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

¹⁶ 820 ILCS 147/15.

¹⁷ Id. The school visitation leave entitlement applies to both professional and educational support personnel. Rather than duplicate its requirements in separate policies, board policy 5:330, Educational Support Personnel - *Sick Days, Vacation, Holidays, and Leaves*, grants the leave on the same terms applicable to professional staff.

¹⁸ 820 ILCS 147/.

¹⁹ Required by the Victims' Economic Security and Safety Act, 820 ILCS 180/ ~~amended by P.A. 98-766~~, and 56 Ill.Admin.Code §280. While the law applies to all school districts (820 ILCS 180/10(10), ~~amended by P.A. 99-765, eff. 1-1-17~~, the ~~leave is only available to employees working for employers with at least 15 employees number of employees determines the number of total workweeks of leave available during any 12-month period~~ (820 ILCS 180/20(a)(2), ~~amended by P.A. 99-765, eff. 1-1-17~~). The term *employee* includes part-time workers. The Ill. Dept. of Labor must furnish to all employers a notice summarizing the law's requirements (*Your Rights Under Illinois Employment Laws*, at www.illinois.gov/idol/Employers/Documents/flsposter.pdf www.illinois.gov/idol/EmployerInformation/Pages/posters.aspx). All districts must post this notice in a conspicuous place where notices to employees are customarily posted.

²⁰ If the district employs fewer than 50 employees, it may substitute the following sentence: "Accordingly, if the District employs at least 15 but not more than 49 employees, an employee is entitled to a total of eight (8) work weeks of leave during any 12-month period." 820 ILCS 180/20(a)(2).

If the district employs at least one but not more than 14 employees, it may substitute the following sentence: "Accordingly, if the District employs at least one but not more than 14 employees, an employee is entitled to a total four (4) work weeks of leave during any 12-month period." 820 ILCS 180/20(a)(2), amended by P.A. 99-765, eff. 1-1-17.

²¹ The Victims' Economic Security and Safety Act states that an employee does not have a right to take unpaid leave that exceeds the unpaid leave time allowed under the Family and Medical Leave Act (820 ILCS 180/20(a)(2)). Section 25 creates an ambiguity by stating, "[t]he employer may not require the employee to substitute available paid or unpaid leave for [leave available to victims of domestic or sexual violence]." (820 ILCS 180/25). Contact the board attorney for advice resolving this ambiguity.

Leaves to Serve as an Officer or Trustee of a Specific Organization

Upon request, the Board will grant: (1) an unpaid leave of absence to an elected officer of a State or national teacher organization that represents teachers in collective bargaining negotiations,²² (2) twenty days of paid leave of absence per year to a trustee of the Teachers' Retirement System in accordance with 105 ILCS 5/24-6.3,²³ and (3) a paid leave of absence for the local association president of a State teacher association that is an exclusive bargaining agent in the District, or his or her designee, to attend meetings, workshops, or seminars as described in 105 ILCS 5/24-6.2. ²⁴

LEGAL REF.: 10 ILCS 5/13-2.5
20 ILCS 1805/30.1 et seq.
[820 ILCS 154/](#)
105 ILCS 5/24-6, 5/24-6.1, 5/24-6.2, 5/24-6.3, 5/24-13, and 5/24-13.1.
820 ILCS 147/ and 180/.

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical Leave), 5:330 (Educational Support Personnel - Sick Days, Vacation, Holidays, and Leaves)

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

²² Required by 105 ILCS 5/24-13.

²³ Required by 105 ILCS 5/24-6.3. See 5:330, *Educational Support Personnel - Sick Days, Vacation, Holidays, and Leaves*, for the leave for an elected trustee for the Ill. Municipal Retirement Fund.

²⁴ Required by 105 ILCS 5/24-6.2.

Comment [KAS1]: The policy, Legal References, and footnotes are updated to incorporate 105 ILCS 5/10-21.9, 5/21B-5, and 5/21B-80, amended by P.A. 99-667 and clarify School Code requirements for student teacher complete criminal history records checks.

Professional Personnel

Student Teachers ¹

The Superintendent is authorized to accept students from university-approved teacher-training programs to do student teaching in the District. No individual who has been convicted of a criminal offense ~~listed in that would subject him or her to license suspension or revocation pursuant to~~ Section 5/21B-80 of the School Code ² or who has been found to be the perpetrator of sexual or physical abuse of a minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987 is permitted to student teach ~~or complete field or other clinical experience.~~

Before permitting an individual to student teach or ~~begin a required internship~~ participate in any field experience in the District, the Superintendent or designee shall ensure that:³

1. The District performed a ~~105 ILCS 5/10-21.9(g) complete criminal history records check~~ Check as described below; and
2. The individual furnished evidence of physical fitness to perform assigned duties and freedom from communicable disease pursuant to 105 ILCS 5/24-5. ⁴

A ~~105 ILCS 5/21.9(g) complete criminal history records check~~ Check pursuant to 105 ILCS 5/10-21-9 shall include:

1. Fingerprint-based checks through (a) the Illinois State Police (ISP) for criminal history records information (CHRI) pursuant to the Uniform Conviction Information Act (20 ILCS 2635/1), and (b) the FBI national crime information databases pursuant to the Adam Walsh Child Protection and Safety Act (P.L. 109-248);
2. A check of the Illinois Sex Offender Registry (see the Sex Offender Community Notification Law (730 ILCS 152/101 et seq.); and
3. A check of the Illinois Murderer and Violent Offender Against Youth Registry (Murderer and Violent Offender Against Youth Community Notification Law (730 ILCS 154/75-105; ~~amended by 97-154~~).

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

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

This sample policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions which exceed these requirements. When a policy's subject matter is superseded by a bargaining agreement, the school board policy may state, "Please refer to the ~~current Professional Agreement between the Classroom Teachers' Association and the Board of Education~~ applicable collective bargaining agreement(s)."

² P.A. 99-667 amended the School Code at 105 ILCS 5/10-21.9, 5/21B-15, and 5/21B-80(b) to carve out an exception allowing individuals with convictions involving certain drug offenses to obtain educator licensure or reinstate a license suspension/revocation seven years after the end of an individual's sentence for these certain drug offenses. See 5:30-AP2, Investigations, for a list of these carved-out drug offenses.

³ 105 ILCS 5/10-21.9(g) applies to individuals who will be student teachers or who are beginning a required internship. For boards that want to include students participating in any field or clinical experience, amend the introductory phrase to state "Before permitting an individual to student teach, ~~or begin a required internship, or participate in any field experience in the District, . . .~~" For more discussion about students participating in any field or clinical experience, see f/n7 below.

⁴ The requirements for physical fitness and freedom from communicable disease apply to student teachers as of 7-16-2014 (105 ILCS 5/24-5; ~~amended by P.A. 98-716~~).

The School Code requires ~~Each individual student teacher~~ beginning or beginning a required internship ~~to~~ must provide the District with written authorization for, and pay the costs of, his or her 105 ILCS 5/10-21.9(e) ~~criminal history records~~ check (including any applicable vendor's fees). 5 Upon receipt of this authorization and payment, the Superintendent or designee will submit the student teacher's name, sex, race, date of birth, social security number, fingerprint images, and other identifiers, as prescribed by the Department of State Police, to the Department of State Police. 6 T, ~~and the Superintendent or designee will provide each student teacher with a copy of his or her report.~~ 7

Assignment

The Superintendent or designee shall be responsible for coordinating placements of all student teachers within the District. Student teachers should be assigned to supervising teachers whose qualifications are acceptable to the District and the students' respective colleges or universities. ~~A teacher may be eligible for Continuing Professional Development Units (CPDU) for supervising a student teacher or teacher education candidate in clinical supervision.~~ 8

Comment [MB2]: Repealed, eff. 12-27-13 (School Code provision, 105 ILCS 5/21-14) and eff. 6-30-14 (Administrative Code provision, 23 Ill.Admin.Code 25.875).

LEGAL REF.: Adam Walsh Child Protection and Safety Act, P.L. 109-248.
Uniform Conviction Information Act, 20 ILCS 2635/1.
105 ILCS ~~5/10-21.9, 5/21-14(e)(3)(E)(viii);~~ 5/10-22.34, and 5/24-5.
~~23 Ill.Admin.Code §25.875.~~

CROSS REF.: 5:190 (Teacher Qualifications), 4:175 (Convicted Child Sex Offender; ~~Criminal Background Check and/or Screening~~; Notifications)

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

5 105 ILCS 5/10-21.9(e).

6 *Id.*

7 ~~Id.~~ 105 ILCS 5/10-21.9(e), amended by P.A.s 97-154 and 97-607, require A student teacher or individual beginning a required internship ~~to~~ must undergo a fingerprint-based State and national criminal history records check and checks of the Statewide Sex Offender Registry and Statewide Murderer and Violent Offender Against Youth Registry prior to participating in any field experiences in the school. ~~The statutory phrase "...prior to participating in any field experiences" involves student teaching only.~~ For information about ~~criminal history records checks screenings or fingerprint-based criminal history records information checks~~ for students doing field or clinical experience other than student teaching, see number two in the subhead titled **Screening Individuals Who are Likely to Have Contact with Students at School or School Events** in 4:175-AP1, *Criminal Offender Notification Laws; Screening*.

20 ILCS 2635/7(A) requires the student teacher's written authorization and a district to provide a copy of the reports, and 105 ILCS 5/10-21.9 requires the student teacher to pay for the costs of the criminal history records check. *LiveScan* is the recommended equipment for criminal history records checks. The language in this policy does not distinguish whether the district uses an authorized LiveScan vendor or owns or leases its own LiveScan equipment. Delete "(including applicable vendor's fees)" if the district owns or leases its own LiveScan equipment.

For more guidance and information on navigating the records laws surrounding criminal history records checks, along with a LiveScan vendor directory, see ISBE's non-regulatory guidance document, *Criminal History Records Information (CHRI) Checks for Certified and Non-certified School Personnel*, available at: www.isbe.net/pdf/guidance_chr.pdf.

~~8~~ 105 ILCS 5/21-14(e)(3)(E)(viii); 23 Ill.Admin.Code §25.875.

Educational Support Personnel

Duties and Qualifications ¹

All support staff: (1) must meet qualifications specified in job descriptions, (2) must be able to perform the essential tasks listed and/or assigned, and (3) are subject to School Board policies as they may be changed from time to time at the Board's sole discretion.

Paraprofessionals ²

Paraprofessionals provide supervised instructional support. Service as a paraprofessional requires an educator license with stipulations endorsed for a paraprofessional educator unless a specific exemption is authorized by the Illinois State Board of Education (ISBE).

Individuals with only non-instructional duties (e.g., providing technical support for computers, providing personal care services, or performing clerical duties) are not paraprofessionals, and the requirements in this section do not apply. In addition, individuals completing their clinical experiences and/or student teaching do not need to comply with this section, provided their service otherwise complies with ISBE rules. ³

Noncertificated and Unlicensed Personnel Working with Students and Performing Non-Instructional Duties

Noncertificated and unlicensed personnel performing non-instructional duties may be used:

1. For supervising study halls, long-distance teaching reception areas used incident to instructional programs transmitted by electronic media (e.g., computers, video, and audio), detention and discipline areas, and school-sponsored extracurricular activities; ⁴

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

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

² Educator licensure replaced the previous system of certification on 7-1-2013. All Illinois teaching, administrative, and school service personnel certificates were converted to a corresponding license. Except as provided in ISBE rule §1.630, all new applicants for a paraprofessional credential must hold an educator license with stipulations endorsed for a paraprofessional educator (23 Ill.Admin.Code §§1.630 and 25.510). See ISBE's explanation at: www.isbe.net/licensure/html/paraprofessional.htm.

~~**Important:** After the 2013-2014 school year, ISBE will no longer approve the use of speech language paraprofessionals. Educators who served as speech language paraprofessionals who wish to continue providing speech language services after the 2013-2014 school year must obtain a support personnel endorsement for a non-teaching, speech language pathologist (23 Ill.Admin.Code §§25.252) or qualify as a speech language pathologist intern (23 Ill.Admin.Code §§25.255), or speech language pathology assistant (105 ILCS 5/14-6.03).~~

A district may continue to use the term *teacher aide* to describe licensed personnel performing instructional support activities. In that situation, use the following alternative for the subhead and first paragraph:

Paraprofessionals and Licensed Teacher Aides

Paraprofessionals and licensed teacher aides provide supervised instructional support. Personnel performing instructional support activities must hold a current educator license with stipulations endorsed for a paraprofessional educator unless a specific exemption is authorized by the Illinois State Board of Education (ISBE).

If a district uses teacher aides to perform non-instructional support activities, *unlicensed teacher aides* may be inserted in the subhead for next section as follows: "Noncertificated and Unlicensed Personnel (Including Unlicensed Teacher Aides) Working with Students and Performing Non-Instructional Duties."

³ 105 ILCS 5/10-22.34; 23 Ill.Admin.Code §§1.630 and 25.620 (student teaching). This paragraph is optional and maybe deleted if the board desires a streamlined policy.

⁴ 105 ILCS 5/10-22.34(a)(2).

2. As supervisors, chaperones, or sponsors for non-academic school activities; or ⁵
3. For non-teaching duties not requiring instructional judgment or student evaluation.⁶

Nothing in this policy prevents a noncertificated person from serving as a guest lecturer or resource person under a certificated teacher's direction and with the administration's approval. ⁷

Coaches and Athletic Trainers

Athletic coaches and trainers shall have the qualifications required by any association in which the School District maintains a membership.⁸ Regardless of whether the athletic activity is governed by an association, the Superintendent or designee shall ensure that each athletic coach: (1) is knowledgeable regarding coaching principles, (2) has first aid training, and (3) is a trained Automated External Defibrillator user according to rules adopted by the Illinois Department of Public Health.⁹ Anyone performing athletic training services shall be licensed under the Illinois Athletic Trainers Practice Act, be an athletic trainer aide performing care activities under the on-site supervision of a licensed athletic trainer, or otherwise be qualified to perform athletic trainer activities under State law.¹⁰

Bus Drivers

All school bus drivers must have a valid school bus driver permit.¹¹ The Superintendent or designee shall inform the Illinois Secretary of State, within 30 days of being informed by a school bus driver,

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

⁵ 105 ILCS 5/10-22.34a; 23 Ill.Admin.Code §1.630(a).

⁶ 105 ILCS 5/10-22.34(a)(1); 23 Ill.Admin.Code §1.630(a).

⁷ 105 ILCS 5/10-22.34b, last paragraph. Noncertificated personnel may be used to provide specialized instruction in a field that an individual is particularly qualified by reason of specialized knowledge or skill (23 Ill.Admin.Code §1.630(c)(3)(C)). Districts that frequently use noncertificated individuals to provide such instruction may consider adding the following optional sentence:

When appropriate, the Superintendent may seek approval from the responsible Regional Superintendent for a noncertificated individual to provide specialized instruction, that is not otherwise readily available in the school environment, in the field that the individual is particularly qualified by reason of specialized knowledge or skill.

⁸ A district should consult the handbooks and by-laws of the appropriate associations, e.g., the Illinois High School Association, the Southern Illinois Junior High School Athletic Association, and the Illinois Elementary School Association.

An optional sentence follows:

The coach for an extracurricular athletic activity sponsored or sanctioned by the Illinois High School Association (IHSA) at or above the ninth grade level must have completed the IHSA's educational program and competency testing on preventing abuse of performance-enhancing substances, provided the program is available.

⁹ Optional and may be amended. The first requirement identifies a basic competency, and the second two requirements are intended to ensure coaches are trained emergency responders. For AED training program requirements, see Automated External Defibrillator Act (410 ILCS 4/15) and Automated External Defibrillator Code (77 Ill.Admin.Code Part 525).

¹⁰ 225 ILCS 5/3 and 5/4.

¹¹ The regional superintendent is authorized to conduct school bus driver instruction courses and investigate whether persons hired to operate school buses have valid school bus driver permits (105 ILCS 5/3-14.23).

School bus driver permits are issued by the Secretary of State (625 ILCS 5/6-106.1). Districts must conduct a pre-employment interview with bus driver candidates, distribute bus driver applications and medical forms, and submit the applicant's fingerprint cards to the State Police for criminal background investigations. Districts must also certify in writing to the Secretary of State that all pre-employment conditions were completed, including an Illinois-specific criminal background investigation through the State Police and the submission of necessary fingerprints to the Federal Bureau of Investigation for criminal history information (Id.). The applicant presents this certification to the Secretary of State when submitting the school bus driver permit application (Id.).

A school bus driver operating a school bus at the time of an accident is deemed by the implied consent law to agree to submit to tests at the direction of a law enforcement officer of the driver's breath, blood, or urine to determine the presence of alcohol, or other drugs, in the person's system (625 ILCS 5/6-516).

Anyone driving a bus chartered to transport students to or from interscholastic athletic or interscholastic or school-sponsored activities must have a valid school bus driver permit; this does not apply to any driver employed by a public

that the bus driver permit holder has been called to active duty.¹² New bus drivers and bus drivers who are returning from a lapse in their employment are subject to the requirements contained in Board policy 5:30, *Hiring Process and Criteria* and Board policy 5:285, *Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers*.

LEGAL REF.: ~~No Child Left Behind Act of 2001, 20 U.S.C. §6319(e);~~
~~34 C.F.R. §§200.58 and 200.59;~~¹³
105 ILCS 5/10-22.34, 5/10-22.34a, and 5/10-22.34b.
625 ILCS 5/6-104 and 5/6-106.1.
23 Ill.Admin.Code §§1.630 and 25.510.

CROSS REF.: 4:110 (Transportation), 4:170 (Safety), 5:30 (Hiring Process and Criteria), 5:35 (Compliance with the Fair Labor Standards Act), 5:285 (Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers), 6:250 (Community Resource Persons and Volunteers)

Comment [MB2]: Still exist but have not been updated yet to align with ESEA as amended by ESSA, and no NPRM pending. We will continue to cite them, if appropriate, and note the discrepancy in a f/n. The PRESS Memo will note that federal ESSA rules are still pending, therefore this is fluid and will likely be updated multiple times.

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.
transportation provider when the bus is on a regularly scheduled route for transporting other fare-paying passengers (625 ILCS 5/6-104(d-5)).

¹² This sentence is optional, but the notification is required by 625 ILCS 5/6-106.1(h). *Active duty* is defined in the statute as active duty pursuant to an executive order of the U.S. President, an act of the Congress, or an order of the Governor. Upon notification, the Secretary of State will characterize the permit as inactive until a permit holder renews the permit pursuant to 625 ILCS 5/6-106.1(h).

¹³ The statute underlying these regulations (20 U.S.C. §6319) was repealed by the Every Student Succeeds Act, eff. 12-10-15; amendments to the regulations are highly likely within the next year.

Educational Support Personnel

Sick Days, Vacation, Holidays, and Leaves ¹

Each of the provisions in this policy applies to all educational support personnel to the extent that it does not conflict with an applicable collective bargaining agreement or individual employment contract or benefit plan; in the event of a conflict, such provision is severable and the applicable bargaining agreement or individual agreement will control.

Sick and Bereavement Leave ²

Full or part-time educational support personnel who work at least 600 hours per year receive 10 paid sick leave days per year. Part-time employees will receive sick leave pay equivalent to their regular

Comment [KAS1]: The policy, Legal References, and footnotes are updated to address the Child Bereavement Leave Act, 820 ILCS 154/, added by P.A. 99-703 and the Employee Sick Leave Act 820 ILCS 191/, added by P.A. 99-841, eff. 1-1-17.

Comment [KAS2]: Discussion of the Employee Sick Leave Act is added to footnotes, but it is not necessary to add into the policy text.

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

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

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. Alternatively, if the policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the current [insert name of educational support CBA]."

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA), 29 U.S.C. §2612, amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (P.L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (1) the birth and first-year care of a child, (2) the adoption or foster placement of a child, (3) the serious health condition of an employee's spouse, parent, or child, (4) the employee's own serious health condition, (5) the existence of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on (or has been notified of an impending call to) *covered active duty* in the Armed Forces, and (6) to care for the employee's spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness. The definition of *covered servicemember* includes a veteran "who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness" if the veteran was a member of the Armed Forces "at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy." Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee's FMLA entitlement (29 C.F.R. §825.207). See policy 5:185, *Family and Medical Leave*.

A plethora of State laws grant leaves to employees of the State and municipalities, but are not applicable to school districts, including the Employee Blood Donation Leave Act (820 ILCS 149/), Local Government Disaster Service Volunteer Act (50 ILCS 122/), Organ Donor Leave Act (5 ILCS 327/), and Civil Air Patrol Leave Act (820 ILCS 148/).

² This section contains the minimum benefits provided by 105 ILCS 5/24-6. Each specified number of days in this section is the statutory minimum. The School Code does not address whether an employee's 10 paid sick leave days are available upon employment, accrued over months, or after working for a certain period of time, e.g., one year. Also be aware that the Employee Sick Leave Act 820 ILCS 191/, added by P.A. 99-841, eff. 1-1-17, allows employees to use employer-provided sick leave to care for an ill or injured family member or to attend a medical appointment with a family member. The law defines family members as a child (biological, adopted, stepchild, or legal ward), spouse, domestic partner, sibling, parent, mother- or father-in-law, grandchild, grandparent, or stepparent (Id. at 191/10(b)). Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury. Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements. Strict accounting of unused sick days is important to avoid:

1. Employees accumulating sick time on a full-time basis when they are truly working part-time hours;
2. Inconsistent treatment; and
3. Inaccurate reporting to IMRF (credit is given for full day unused sick days upon retirement) (40 ILCS 5/7-139(a)(8)).

workday. Unused sick leave shall accumulate to a maximum of 180 days, including the leave of the current year. ³

Sick leave is defined in State law as personal illness, quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, or placement for adoption. The Superintendent and/or designee shall monitor the use of sick leave.

As a condition for paying sick leave after three³ days absence for personal illness or 30 days for birth or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may require that the staff member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, (2) a chiropractic physician licensed under the Medical Practice Act, (3) an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, (4) a physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (5) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than three³ days for personal illness, the District shall pay the expenses incurred by the employee.

The use of paid sick leave for adoption or placement for adoption is limited to 30 days unless a longer leave is provided in an applicable collective bargaining agreement. The Superintendent may require that the employee provide evidence that the formal adoption process is underway. ⁴

Vacation ⁵

Twelve-month employees shall be eligible for paid vacation days according to the following schedule:

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

³ As this policy is consistent with the minimum requirements of State law, this provision on the maximum number of sick days that may be accumulated is based on the minimum number required as stated in 105 ILCS 5/24-6. The number may be increased to meet or exceed the number IMRF will recognize for retirement credit purposes. The following alternative does this: "Unused sick leave shall accumulate to the maximum number of days that IMRF will recognize for retirement credit purposes."

The following optional provisions apply to boards that want to address the IMRF's requirement that public bodies must have a written plan allowing eligible employees to convert their eligible accumulated sick leave to service credit upon their retirement. See 40 ILCS 5/7-139(a)(8)) and see also IMRF General Memorandum #555 at:

www.imrf.org/en/publications-and-archive/general-memos/2007-general-memos/general-memo-555

Option 1: *No collective bargaining agreement applies and the board wants to publicize its written plan.* Insert the following sentence *if a board wants to comply with the IMRF's requirement that public bodies have a written plan allowing eligible employees to convert their eligible accumulated sick leave to service credit upon their retirement:*

This policy is the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon a District employee's retirement under the Illinois Municipal Retirement Fund.

Option 2: *A* ~~The~~ local collective bargaining agreement ~~may~~ contains ~~this~~ written plan ~~and the board wants to publicize it.~~ *If it does, the board policy can refer to the agreement.* Insert the following sentence:

Please refer to the applicable collective bargaining agreement(s) ~~current~~ *[insert name of CBA or use a generic reference, e.g., "agreement between the bargaining representative and the School Board"]* for the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon an employee's retirement under the Illinois Municipal Retirement Fund.

Option 3: *If a* ~~A~~ district maintains two separate sick leave plans, one for employees under a collective bargaining agreement, and one for non-unionized employees, ~~insert the text for both Option 1 and Option 2 options.~~

If ~~Options 1, 2, or 3 are either or both options are~~ chosen, add 40 ILCS 5/7-139 to the Legal References.

If the board does not have a written sick leave plan for purposes of IMRF sick leave to service credit conversion or does not wish to include it in the policy, do not include any of the options above or add the citation to the Legal Reference.

⁴ 105 ILCS 5/24-6.

⁵ State law does not require districts to give employees vacations.

<u>Length of Employment</u>		<u>Monthly Accumulation</u>	<u>Maximum Vacation Leave Earned Per Year</u>
<u>From:</u>	<u>To:</u>		
Beginning of year 2	End of year 5	0.83 Days	10 Days per year
Beginning of year 6	End of year 15	1.25 Days	15 Days per year
Beginning of year 16	End of year	1.67 Days	20 Days per year

Part-time employees who work at least half-time are entitled to vacation days on the same basis as full-time employees, but the pay will be based on the employee's average number of part-time hours per week during the last vacation accrual year. The Superintendent will determine the procedure for requesting vacation.

Vacation days earned in one fiscal year must be used by the end of the following fiscal year; they do not accumulate. Employees resigning or whose employment is terminated are entitled to the monetary equivalent of all earned vacation. ⁶

Holidays ⁷

Unless the District has a waiver or modification of the School Code pursuant to Section 2-3.25g or 24-2(b) allowing it to schedule school on a holiday listed below, District employees will not be required to work on:

- | | |
|-----------------------------------|------------------|
| New Year's Day | Labor Day |
| Martin Luther King Jr.'s Birthday | Columbus Day |
| Abraham Lincoln's Birthday | Veteran's Day |
| Casimir Pulaski's Birthday | Thanksgiving Day |
| Memorial Day | Christmas Day |
| Independence Day | |

A holiday will not cause a deduction from an employee's time or compensation. The District may require educational support personnel to work on a school holiday during an emergency or for the continued operation and maintenance of facilities or property.

Personal Leave ⁸

Full-time educational support personnel have one paid personal leave day per year. The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, a personal leave request should be submitted to the Building Principal ~~three~~ 3 days before the requested date.
2. No personal leave day may be used immediately before or immediately after a holiday, or during the first and/or last ~~five~~ 5 days of the school year, unless the Superintendent grants prior approval.
3. Personal leave may not be used in increments of less than one-half day.

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

⁶ Required by 820 ILCS 115/5 and 56 Ill. Admin. Code §300.520 (Earned Vacations).

⁷ Holidays are listed in 105 ILCS 5/24-2. For information on the waiver process, see 2:20-E, *Waiver and Modification Request Resource Guide*. Holidays not specified in the statute may be added to the policy; however, boards adding additional holidays should monitor and review to ensure the list remains current.

A State-mandated school holiday on *Good Friday* is unconstitutional according to *Metzl v. Leininger*, 57 F.3d 618 (7th Cir. 1995). Closing school on religious holidays may be permissible for those districts able to demonstrate that remaining open would be a waste of educational resources because of widespread absenteeism. Also, districts may be able to close school on Good Friday by adopting a *spring holiday* rationale or ensuring that it falls within spring break. School districts should discuss their options, including the collective bargaining implications, with their board attorney.

⁸ State law does not address personal leave.

4. Personal leave is subject to any necessary replacement's availability.
5. Personal leave may not be used on an in-service training day and/or institute training days.
6. Personal leave may not be used when the employee's absence would create an undue hardship.

Leave to Serve as a Trustee of the Illinois Municipal Retirement Fund

Upon request, the Board will grant 20 days of paid leave of absence per year to a trustee of the Illinois Municipal Retirement Fund in accordance with 105 ILCS 5/24-6.3. ⁹

Other Leaves

Educational support personnel receive the following leaves on the same terms and conditions granted professional personnel in Board policy 5:250, *Leaves of Absence*:

1. Leaves for Service in the Military and General Assembly. ¹⁰
2. School Visitation Leave. ¹¹
- ~~3.~~ ^{3.} Leaves for Victims of Domestic or Sexual Violence. ¹²
- ~~3-4.~~ ^{4.} Child Bereavement Leave. ¹³
- ~~4-5.~~ Leave to serve as an election judge. ¹⁴

Comment [KAS4]: A footnote amendment is all that is necessary for this policy to manage P.A. 99-765.

Comment [KAS5]: See the discussion in policy 5:250, *Professional Personnel - Leaves of Absence*, for further information.

LEGAL REF.: 20 ILCS 1805/30.1 et seq.
 105 ILCS 5/10-20.7b, 5/24-2, and 5/24-6.
 820 ILCS 147 and 180/
820 ILCS 154/.
School Dist 151 v. ISBE, 507 N.E.2d 134 (Ill.App.1, 1987); Elder v. School Dist. No.127 1/2, 208 N.E.2d 423 (Ill.App.1, 1965).

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical Leave), 5:250 (Professional Personnel - Leaves of Absence)

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

⁹ Required by 105 ILCS 5/24-6.3. A similar leave exists for an elected trustee for the Ill. Teachers' Retirement System. See 5:250, *Professional Personnel - Leaves of Absence*.

¹⁰ Military leave is governed by: The School Code (105 ILCS 5/10-20.7b, 5/24-13, and 5/24-13.1); the Military Leave of Absence Act (5 ILCS 325/ added mandatory leave for "other training or duty required by the United States Armed Forces" and to require the public employer to make-up the difference between military pay and regular compensation); Service Member's Employment Tenure Act (330 ILCS 60/4); Public Employee Armed Services Rights Act (5 ILCS 330/4); National Guard Employment Rights (20 ILCS 1805/30.20); and Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301).

Granting General Assembly leave to ESPs is optional.

¹¹ 820 ILCS 147/. See policy 5:250, *Leaves of Absence*, and administrative procedure 5:250-AP, *School Visitation Leave*.

¹² Required by Victims' Economic Security and Safety Act, 820 ILCS 180/, amended by P.A. 99-765, eff. 1-1-17, and 56 Ill.Admin.Code §280. Important information about this leave is discussed in ~~the footnotes 19 and 20 of~~ policy 5:250, *Professional Personnel - Leaves of Absence*.

¹³ 820 ILCS 154/. added by P.A. 99-703. Important information about this leave is discussed in f/n 4 of policy 5:250, *Professional Personnel - Leaves of Absence*.

¹⁴ 10 ILCS 5/13-2.5, ~~amended by P.A. 98-691.~~

Comment [KAS1]: The policy and footnotes are updated to delete former requirements under NCLB, repealed by ESSA and P.A.s 99-193 and P.A. 99-657, and amendments to 23 Ill.Admin.Code §1.97.

Instruction

School Accountability 1

According to the Illinois General Assembly, the primary purpose of schooling is the transmission of knowledge and culture through which students learn in areas necessary to their continuing development and entry into the world of work.² To fulfill that purpose, the Illinois State Board of Education prepared *State Goals for Learning* with accompanying *Illinois Learning Standards*.³

The School Board gives priority in the allocation of resources, including funds, time, personnel, and facilities, to fulfilling this purpose.

Quality Assurance

The Board continuously monitors student achievement and the quality of the District's work. The Superintendent shall supervise the following quality assurance components, in accordance with State law and Illinois State Board of Education (ISBE) rules, and continuously keep the Board informed:

1. Prepare each school's annual recognition application and quality assurance appraisal, whether internal or external, to assess each school's continuous school improvement.⁴
- ~~2. If applicable, implement a No Child Left Behind Act (NCLB) plan, including the completion of the NCLB Consolidated Application, and seek Board approval where necessary or advisable.⁵~~
- ~~3-2.~~ Continuously assess the District's and each school's overall performance in terms of both academic success and equity. This includes, without limitation, a thorough analysis of ISBE's balanced accountability measure and each school's *Multiple Measure Index* and corresponding *Annual Measurable Objective* provided by ISBE.⁶

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

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

² 105 ILCS 5/27-1.

³ 23 Ill.Admin.Code §1, Appendix D.

⁴ 105 ILCS 5/2-3.25 - 2-3.25b; 23 Ill.Admin.Code §§1.10(a) and 1.20.

~~⁵ Omit this item if the district does not receive Title I funds. Title I is part of the Elementary and Secondary Education Act (20 U.S.C. §6301 et seq.). It was amended by No Child Left Behind (NCLB) which was signed on 1-8-02 and officially expired on 9-30-07. While NCLB remains in effect due to a continuing resolution, state education offices (like ISBE) routinely receive waivers while Congress considers ways to re-write NCLB to provide greater flexibility to states.~~

~~⁶ 20 U.S.C. §6312 contains the required components of a NCLB plan. ISBE's *Grant and Programs* division administers the NCLB Consolidated Application. See www.isbe.net/grants/html/grants_nclb.htm.~~

⁶ 105 ILCS 5/2-3.25a, amended by P.A. 99-193 and P.A. 99-657; and 5/2-3.25d, amended by P.A. 99-193; 5/2-3.64a-5, added by P.A. 98-972. P.A. 99-193 significantly revised the system of standards for school districts and schools, and P.A. 99-657 delayed certain implementation dates by one school year. ISBE must establish recognition standards for student performance and school improvement for all districts and their individual schools. The recognition standard must be an outcome-based, *balanced accountability measure*. Subject to funding, the *balanced accountability measure* must focus on student performance and, beginning in the ~~2016-17~~2017-18 school year for some districts and for all districts by the ~~2021-22~~2022-23 school year, professional practice. The student performance component must focus on student outcomes and closing the achievement gaps using a *Multiple Measure Index* and *Annual Measurable Objectives*. ISBE must establish a *Multiple Measure Index* and *Annual Measurable Objectives* for each school that address the school's overall performance in terms of both academic *success* and *equity* (105 ILCS 5/2-3.25d(a), amended by P.A. 99-193). A process for assistance, remediation, and intervention exists for low-performing districts known as *priority* and *focus* districts, as those terms are defined by 105 ILCS 5/2-3.25d-5, added by P.A. 99-193 (105 ILCS 5/2-3.25e-5 and 5/2-3.25f, amended by P.A. 99-193).

~~4.3.~~ If applicable, develop District and School Improvement Plans, present them for Board approval, and supervise their implementation. **7**

~~5.4.~~ Prepare a school report card, present it at a regular Board meeting, and disseminate it as provided in State law. **8**

~~6.5.~~ In accordance with Sec. 2-3.153 of the School Code, administer at least biennially a survey of learning conditions on the instructional environment within the school to, at minimum, students in grades 6 through 12 and teachers. **9**

School Choice and Supplemental Education Services **10**

~~This section of the policy is effective only if the choice and/or supplemental educational services requirements in federal law are applicable to Illinois. When effective, school choice and supplemental education services will be offered to students as provided in Title I of the Elementary and Secondary Education Act.~~

LEGAL REF.: ~~No Child Left Behind Act, §1116, 20 U.S.C. §6316; 34 C.F.R. §§200.32, 200.33, 200.42, and 200.43; 105 ILCS 5/2-3.25, 5/2-3.25a, 5/2-3.25b, 5/2-3.25c, 5/2-3.25d, 5/2-3.25d-5, 5/2-3.25e-5, 5/2-3.25f, 5/2-3.25f-5, 5/2-3.63, 5/2-3.64a-5, 5/10-21.3a, and 5/27-1.23 Ill.Admin.Code Part 1, Subpart A: Recognition Requirements.~~

CROSS REF.: 6:170 (Title I Programs), 6:340 (Student Testing and Assessment Program), 7:10 (Equal Educational Opportunities)

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

7 The requirements around district and school improvement plans are unknown until ISBE revises its rules following P.A. 99-193. This Public Act deleted the requirements concerning improvement plans as well as the sanctions for failing to make adequate yearly progress (105 ILCS 5/2-3.25d, amended by P.A. 99-193). 105 ILCS 5/2-3.25f continues to state that schools or districts "that fail to make reasonable efforts to implement an approved Improvement Plan may suffer loss of State funds by school district, attendance center, or program as the State Board of Education deems appropriate."

~~When the federal choice law is effective, school districts must reconcile it with the State law limiting transfers (105 ILCS 5/10-21.3a). Sample policy 7:30, School Assignment and Intra-District Transfer, implements this law.~~

8 105 ILCS 5/10-17a, amended by P.A. 99-193. Districts must present the report card at a regular board meeting, post it on the district's website, make it available to newspapers of general circulation in the district, notify parents/guardians of its availability on the district's website, provide it to parents/guardians on request, submit it to the regional superintendent [or appropriate Intermediate Service Center](#), and otherwise disseminate it as required by State law.

9 Required by 105 ILCS 5/2-3.153; [23 Ill.Admin.Code §1.97](#). The State Superintendent must publicly report on selected indicators of learning conditions resulting from the administration of the instrument at the individual school, district, and State levels. [A district may use an alternate learning instrument approved by the State Superintendent at its own cost. These survey instruments are authorized by July 1 each year and posted at: www.isbe.net/5essentials/default.htm \(23 Ill.Admin. Code §1.97\(g\)\(1\)-\(2\)\). To use an alternate survey instrument, the district must submit a form developed for this purpose and posted at www.isbe.net/5essentials/default.htm to the State Superintendent by August 1 each year \(Id.\).](#)

[Insert the following sentence for districts that administer an alternate survey of learning conditions at their own cost: "The District has elected to use an alternate survey of learning conditions instrument."](#)

~~**10** The provisions in this section are required by §1116 of No Child Left Behind (20 U.S.C. §6316; 34 C.F.R. §200.44). Districts that do not receive Title I funds should omit this section. ISBE received a waiver for school year 2015; ISBE's website says that "there will be no choice requirement for the 2014-2015 school year and until further notice," and "no SES requirements beginning with the 2014-15 school year," (emphasis added) at [www.isbe.net/grants/html/choice.htm](#).~~

Instruction

School Wellness 1

Student wellness, including good nutrition and physical activity, shall be promoted in the District's educational program, school activities, and meal programs.² This policy shall be interpreted consistently with Section 204 of the Child Nutrition and WIC Reauthorization Act of 2004 and the Healthy Hunger-Free Kids Act of 2010 (HHFKA).³ The Superintendent or designee will ensure each school building complies with this policy, the policy is available to the community on an annual basis, and that the community is informed about the progress of this policy's implementation. ⁴

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 requires this subject matter to be covered in policy and controls its content. The federal Child Nutrition and WIC Reauthorization Act of 2004 requires school districts participating in a program authorized by the National School Lunch Act or the Child Nutrition Act to have a school wellness policy (PL 108-265, Sec. 204). State law required ISBE to "establish a State goal that all school districts have a wellness policy," (105 ILCS 5/2-3.139). ISBE complied in October 2007 by "instruct[ing] all public school districts to establish a School Wellness Policy." The federal and State laws list mandatory topics for the policy. The second sentence of this policy should be deleted if the district does not participate in the National School Lunch Act or the Child Nutrition Act.

See ISBE's numerous resources at www.isbe.net/nutrition/htmls/wellness_policy.htm. Action for Healthy Kids is a national organization dedicated to overcoming the "epidemic of overweight, undernourished and sedentary youth by focusing on changes in schools;" see its resources at www.actionforhealthykids.org/index.php.

This sample policy seeks to be both legally compliant and consistent with good governance principles. Both federal and State laws allow each school district to determine how the required topics are addressed. Good governance principles suggest that the board should establish goals with community and stakeholder input. The administration should determine how to achieve the goals. The board should monitor this policy by requesting and reviewing periodic implementation data.

The Ill. Dept. of Agriculture and ISBE are directed to create the Farm Fresh Schools Program (30 ILCS 105/5.728; added by P.A. 96-153, recodified by P.A. 96-1000). They are also directed to administer a grant program to further the Program's intent of "reduc[ing] obesity and improv[ing] nutrition and public health, as well as strengthen[ing] local agricultural economies by increasing access to and promoting the consumption of locally grown fruits and vegetables in schools and increasing physical activities and programs that promote pupil wellness."

² 7 C.F.R. §210.30(a).

³ Healthy Hunger-Free Kids Act of 2010 (HHFKA); 42 U.S.C. §1758b (PL 111-296); 7 C.F.R. §§210.10 and 210.30(a).

⁴ Id.; 7 C.F.R. §210.30(c)(4), §210.30 (d)(2), §210.30 (d)(3), and §210.30(e). The intent of the rule is that schools "notify households on an annual basis of the availability of the local school wellness policy information and provide information that would enable interested households to obtain additional details" (Fed. Reg. Vol. 81, No. 146 at 50160). However, the rule states, "[i]nform the public about the content and implementation of the local school wellness policy, and make the policy and any updates to the policy available to the public on an annual basis."

To achieve the intent of this requirement, the regulations suggest several methods for districts, which include a common method many districts likely already use: post the policy on the websites for the public, and use the student handbook to distribute important information to interested households.

Members of the Ill. Principals Assoc. may subscribe to the IPA's Model Student Handbook Service. While this service is not a handbook per se, it provides principals with quick, user-friendly access to model student handbook provisions that are attorney drafted and fully aligned with IASB's policy services. For more information, see:

www.ilprincipals.org/resources/model-student-handbook

Comment [KAS1]: Policy, Legal References, Cross References, and footnotes are updated throughout in response to final Smart Snacks rules, which were changed a bit from the Final Interim Rule.

Other language in the policy reflects State law on physical fitness requirements.

Citations are amended throughout. Smart Snacks rules moved some sections of the rules forward.

Goals for Nutrition Education and Nutrition Promotion ⁵

The goals for addressing nutrition education and nutrition promotion include the following:

- Schools will support and promote sound nutrition for students.
- Schools will foster the positive relationship between sound nutrition, physical activity, and the capacity of students to develop and learn.
- Nutrition education will be part of the District's comprehensive health education curriculum. See School Board policy 6:60, *Curriculum Content*. ⁶

Goals for Physical Activity ⁷

The goals for addressing physical activity include the following:

- Schools will support and promote an active lifestyle for students.
- Physical education will be taught in all grades and shall include a developmentally planned and sequential curriculum that fosters the development of movement skills, enhances health-related fitness, increases students' knowledge, offers direct opportunities to learn how to work cooperatively in a group setting, and encourages healthy habits and attitudes for a healthy lifestyle. See Board policy 6:60, *Curriculum Content* and Board policy 7:260, Exemption from Physical Education. ⁸
- During the school day, all students will be required to engage in a daily physical education course, unless otherwise exempted. See Board policy 6:60, *Curriculum Content* and Board policy 7:260, Exemption from Physical Education. ⁹
- The curriculum will be consistent with and incorporate relevant *Illinois Learning Standards for Physical Development and Health* as established by the Illinois State Board of Education (ISBE). ¹⁰

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⁵ This is a required topic, but the local board may determine what goals are appropriate (PL 108-265, Sec. 204(a)(1) and PL 111-296; 105 ILCS 5/2-3.139(a)(2); and 7 C.F.R. §210.30(c)(1)). *Nutrition promotion* is now required by PL 111-296, but the concept is not described or defined. The Food Nutrition Service (FNS) ~~has~~ described *nutrition promotion* more clearly in its ~~upcoming~~ technical assistance materials and ~~the~~ proposed 7 C.F.R. Part 210 rules (Fed. Reg. Vol. 79, No. 38 at 10695), dated Feb. 26, 2014, which state, "... evidence based techniques and scientifically-based nutrition messages targeted to a specific audience to inspire and motivate them to take action and use these techniques and messages to create environments and food service venues (classroom, cafeteria, a la carte, vending machines, school stores, snack bars, fundraisers, home, etc.) that encourage healthy nutrition choices, as well as enhance and encourage participation in school meal programs."

⁶ 105 ILCS 110/3 and 23 Ill.Admin.Code §1.420(n). ISBE's rules for Comprehensive Health Education found at 23 Ill.Admin.Code Part 253 were repealed, ~~effective~~ 10-3-05.

⁷ This is a required topic, but the local board may determine what goals are appropriate (PL 108-265, Sec. 204(a)(1); 105 ILCS 5/2-3.139(a)(2); and 7 C.F.R. §210.30(a)).

⁸ 105 ILCS 5/27-5 and 27-6; 23 Ill.Admin.Code §1.425 (added at 40 Ill. Reg. 2990).

⁹ Id.

¹⁰ Schools must "set student learning objectives which meet or exceed goals established by the State," (105 ILCS 5/2-3.63). The *Learning Standards* can be found on ISBE's website, www.isbe.state.il.us/ils. See *State Goal 20: Achieve and maintain a health-enhancing level of physical fitness based upon continual self-assessment* at: www.isbe.net/ils/pdh/standards.htm.

105 ILCS 5/27-6.5 describes physical fitness assessments required, beginning with the 2016-17 school year and every school year thereafter, for grades 3-12 in an effort to meet State Goal 20 of the Illinois Learning Standards for Physical Development and Health (at www.isbe.net/ils/pdh/pdf/goal20.pdf). See also 23 Ill.Admin.Code §1.425 (g), (h); ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers (Rev. 8/25/16)* at: www.isbe.net/EPE/pdf/fitness-asmt-faq.pdf.

Nutrition Guidelines for Foods Available During the School Day 11

Students will be offered and schools will promote nutritious food and beverage choices consistent with the current *Dietary Guidelines for Americans* published jointly by the U.S. Departments of Health and Human Services and Agriculture (USDA). In addition, in order to promote student health and reduce childhood obesity, the Superintendent or designee shall restrict the sale of *competitive foods*, as defined by the USDA, in the food service areas during meal periods and comply with all ISBE rules. 12

Exempted Fundraising Day (EFD) Requests 13

All food and beverages sold to students on the school campuses of participating schools during the school day must comply with the “general nutrition standards for competitive foods” specified in federal law, unless the Superintendent or designee in a participating school has granted an *exempted fundraising day* (EFD). To request an EFD and learn more about the District’s related procedure(s), contact the Superintendent or designee. The District’s procedures are subject to change. The number of EFDs is set by ISBE rule.

Guidelines for Reimbursable School Meals 14

Reimbursable school meals served shall meet, at a minimum, the nutrition requirements and regulations for the National School Lunch Program and/or School Breakfast Program. 15

Monitoring 16

The Superintendent or designee shall annually provide implementation data and/or reports to the Board concerning this policy’s implementation sufficient to allow the Board to monitor and adjust the policy. This report must include without limitation each of the following:

- An assessment of the District’s implementation of the policy
- The extent to which schools in the District are in compliance with the policy

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11 The policy must include the nutrition guidelines selected by the board for “all foods available during the school day with the objective of promoting student health and reducing childhood obesity,” (PL 108-265, Sec. 204(a)(2); 105 ILCS 5/2-3.139(a)(1); and 7 C.F.R. §210.10 ~~and 210.30(a) and (c)(3)~~).

12 7 C.F.R. §210.11(a)(2); 23 Ill. Admin. Code §305.5. For a definition of *competitive foods*, see 4:120-AP, *Administrative Procedure - Food Services; Competitive Foods; Exemptions*.

13 Required by 23 Ill. Admin. Code §305.15(c)(2) and ~~7 C.F.R. §230(c)(2) 79 Fed. Reg. 10693~~. Detailed procedures are subject to change and are too complicated for policy text. This policy seeks to balance the requirement to include procedures in the policy for requesting an EFD by providing information about the initial steps and directing the superintendent or designee to inform the requestor of the current procedure. For a list of the number of available EFDs and a more detailed sample step-by-step procedure to request them, see 4:120-AP, *Administrative Procedure - Food Services; Competitive Foods; Exemptions*.

14 Inclusion in the policy is required for only those districts that participate in a program authorized by the National School Lunch Act or the Child Nutrition Act (PL 108-265, Sec. 204(a)(3)).

15 Child Nutrition Act of 1966 (42 U.S.C. §1771 *et seq.*) and National School Lunch Act (42 U.S.C. §1758).

16 The policy must establish a plan for measuring implementation of the local wellness policy, including designation of ~~one~~ or more persons within the local educational agency at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local wellness policy, (PL 108-265, Sec. 204(a)(4); 105 ILCS 5/2-3.139(a)(4); ~~and 7 C.F.R. §210(c)(5) and (6)~~). 105 ILCS 110/3.5(a) requires ISBE to develop and maintain a nutrition and physical activity best practices database. Materials may be found at: www.isbe.net/nutrition/htmls/wellness_policy.htm.

42 U.S.C. §1758b (PL 111-296) requires the public to receive periodic measures with the listed items. ~~While the proposed 7 C.F.R. Part 210 is not finalized,~~ The accepted practice is annual reports. There is very little guidance to assist school districts in complying with this requirement, ~~and~~ school districts were expected to be working toward developing a reasonable method to implement this requirement by the end of the 2011-2012 school year (www.fns.usda.gov/tn/healthy/lwpooverview.pdf). Without guidance, to ensure compliance, superintendents should contact their Regional Office of Education regarding their school districts’ efforts to comply with this requirement. ~~A guide to help school districts conduct an evaluation of local wellness policies is available, along with more guidance is expected and will be available at:~~ www.fns.usda.gov/tn/healthy/wellnesspolicy_tools.html.

- The extent to which the policy compares to model local school wellness policies
- A description of the progress made in attaining the goals of the policy

Community Input 17

The Superintendent or designee will actively invite suggestions and comments concerning the development, implementation, and improvement of the school wellness policy from parents, students, representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and community.

Recordkeeping 18

The Superintendent or designee shall retain records to document compliance with this policy.

LEGAL REF.: Child Nutrition and WIC Reauthorization Act of 2004, PL 108-265, Sec. 204.
 Child Nutrition Act of 1966, 42 U.S.C. §1771 et seq.
 National School Lunch Act, 42 U.S.C. §1751 et seq.
 Healthy, Hunger-Free Kids Act of 2010, 42 U.S.C. §1758b, PL 111-296.
 42 U.S.C. §1779, as implemented by 7 C.F.R. §§210.11 and 210.30.
 105 ILCS 5/2-3.139.
 23 Ill.Admin.Code Part 305, Food Program.
 ISBE’s “School Wellness Policy” Goal, adopted Oct. 2007.

CROSS REF.: 4:120 (Food Services), 5:100 (Staff Development Program), 6:60 (Curriculum Content), 7:260 (Exemption from Physical Education)

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17 A board must establish a policy that involves parents, students, and representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the public in the development of the school wellness policy, (PL 108-265, Sec. 204(a)(5), amended by 42 U.S.C. §1758b (PL 111-296); 105 ILCS 5/2-3.139(a)(3); and 7 C.F.R. §210(d)(1)). This requirement’s awkward wording notwithstanding, a board may take compliance steps by seeking community input during this policy’s adoption and monitoring phases. See 2:240, *Board Policy Development*. A board may also choose to post this policy on its website and include it in the student handbook.

18 7 C.F.R. §210.30(f). Records must include: (1) the policy. (2) documentation demonstrating compliance with community involvement requirements, including requirements to make the local school wellness policy and triennial assessments available to the public; and (3) documentation of the triennial assessment of the local school wellness policy for each school under its jurisdiction.

Comment [KAS1]: The policy, footnotes, Legal References and Cross References are updated to incorporate:

1. P.A.s 99-434, amended by P.A. 99-485 (delayed implementation date and clarifications for civics);
2. P.A. 99-720, eff. 1-1-17 (driver education include instruction concerning law enforcement procedures for traffic stops);
3. A title change in referenced policy 7:260, and physical fitness assessments and physical education goals required by 105 ILCS 5/27-6.5 and 5/27-7; and
4. New physical education regulations at 23 Ill.Admin.Code § 1.425, added at 40 Ill. Reg. 2990

Instruction

Curriculum Content¹

The curriculum shall contain instruction on subjects required by State statute or regulation as follows:

1. In kindergarten through grade 8, subjects include: (a) language arts, (b) reading, (c) other communication skills, (d) science, (e) mathematics,² (f) social studies, (g) art, (h) music,³ and (i) drug and substance abuse prevention.⁴ A reading opportunity of 60 minutes per day will be promoted for all students in kindergarten through grade 3 whose reading levels are one grade level or more lower than their current grade level.⁵
2. In grades 9 through 12, subjects include: (a) language arts, (b) writing intensive course, (c) science, (d) mathematics,⁶ (e) social studies including U.S. history, American government and, for students entering the 9th grade in the fall of 2016 and each year after it (those students covered by P.A. 99-434 (eff. 1-1-2016 but may be delayed by subsequent legislation)), one

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¹ Districts must have a policy on physical education (23 Ill.Admin.Code §1.420(p)). Policies on the remaining topics in this policy are optional. State or federal law controls this policy's content. 23 Ill.Admin.Code §1.420 recommends that activities, including student internships and observations of government in action, be a part of the instructional program where appropriate.

² 105 ILCS 5/2-3.156 requires ISBE to coordinate, adapt and develop middle and high school math curriculum models. There is no consistent definition for *middle school* or *high school* in either State or federal law. Districts are not required to use ISBE's models and may develop their own mathematics curricula.

The purpose of the math curriculum models will be to aid school districts and teachers in implementing the *Common Core Standards*. The ISBE has adopted new ~~Math-math~~ and English ~~Language-language Arts-arts~~ (ELA) standards for K-12 education referred to as the "~~New Ill. State Learning Standards Incorporating the Common Core.~~" The goal of incorporating the *Common Core Standards* into the *State Goals for Learning* is to better prepare Ill. students for success in college and the workforce in a competitive global economy. www.isbe.net/common_core/default.htm.

The terms *Common Core Standards* and the "~~New Ill. State Learning Standards Incorporating the Common Core.~~" are synonymous. Referencing the *Ill. Learning Standards* includes them both. That is because they are incorporated by reference into ISBE's rules and *State Goals for Learning*. A district that wants to include the term *Common Core Standards* in its policy may do so; however, districts should understand that referring to the *Common Core Standards* only will cover only math and ELA learning standards and goals and not any other subject areas that the *Ill. Learning Standards* cover. The best practice is to continue using *Ill. Learning Standards*, which includes the *Common Core Standards*.

³ 23 Ill.Admin.Code §1.430.

⁴ 105 ILCS 5/27-13.2. House Resolution 824 (2014) urges all Illinois schools to educate youth about the dangers of using heroin and the rising numbers of accidental deaths from heroin overdoses through comprehensive drug education programs, including the *Drug Abuse Resistance Education* (DARE) program. No guidance on age appropriate instruction for heroin abuse is provided in the resolution.

⁵ 105 ILCS 5/10-20.53.

⁶ 105 ILCS 5/2-3.156. See f/n 2.

^{105 ILCS 5/27-22}, amended by P.A. 98-885, allows the substitution of an advanced placement computer science course for a year of mathematics. For specific requirements, see 6:300-E2, *State Law Graduation Requirements*, and 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-entering Students*.

semester of civics,⁷ (f) foreign language, (g) music, (h) art, (i) driver and safety education, and (j) vocational education.⁸

Students otherwise eligible to take a driver education course must receive a passing grade in at least ~~eight~~ 8 courses during the previous ~~two~~ 2 semesters before enrolling in the course. The Superintendent or designee may waive this requirement if he or she believes a waiver to be in the student's best interest.⁹ The course shall include: ~~(a)~~ (a) classroom instruction on distracted driving as a major traffic safety issue; ~~10, and (b) instruction concerning law enforcement procedures for traffic stops, including a demonstration of the proper actions to be taken during a traffic stop and appropriate interactions with law enforcement.~~ 11 Automobile safety instruction covering traffic regulations and highway safety must include instruction on the consequences of alcohol consumption and the operation of a motor vehicle.¹² The eligibility requirements contained in State law for the receipt of a certificate of completion from the Secretary of State shall be provided to students in writing at the time of their registration.¹³

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⁷ 105 ILCS 5/27-22, amended by P.A. 99-434 ~~and (eff. 1-1-2016); P.A. 99-485 if approved by the Senate and signed by the Governor, HB800 will:~~ (1) delayed the effective date of P.A. 99-434 until 7-1-2016, and (2) make the civics course requirement effective ~~for only~~ for students entering the 9th grade ~~in the 2016-2017 school year and each year thereafter.~~ The statute specifically states that school districts may utilize private funding available for offering civics education.

⁸ 23 Ill.Admin.Code §1.440, 105 ILCS 5/27-22. The General Assembly encouraged school boards to implement American sign language courses into the school foreign language curriculum (105 ILCS 5/10-20.46). Senate Joint Resolution 68, 96th General Assembly, encourages school districts to explore the introduction of Arabic as a foreign language in their curriculums.

The ISBE rule on driver education personnel is found at 23 Ill.Admin.Code §252.40. School districts may contract with a commercial driver training school (CDTS) for driver education by obtaining a waiver or modification of the administrative rules and regulations promulgated by the ISBE or a modification of School Code mandates (105 ILCS 5/2-3.25g). See 2:20-E, *Waiver and Modification Request Resource Guide*. To qualify to contract with a school district, a CDTS must (a) hold a valid license issued by the Ill. Sec. of State, and (b) provide instructors who hold a valid Ill. teaching certificate or license (Id.). A district contracting with a CDTS must provide a list to ISBE of the CDTS instructors (Id.). The list must include the name, personal ISBE identification number, birth date and driver's license number of each instructor who will teach driver education (Id.).

⁹ 105 ILCS 5/27-24.2.

¹⁰ ~~105 ILCS 5/27-24.2.~~

¹¹ Id., amended by P.A. 99-720, eff. 1-1-17. Required beginning with the 2017-2018 school year.

¹² 105 ILCS 5/27-17.

¹³ The Ill. Vehicle Code, 625 ILCS 5/6-408.5, amended by P.A. 98-718, contains these requirements; they are paraphrased below and may be added to the policy or otherwise disseminated.

Before a certificate of completion will be requested from the Secretary of State, a student must receive a passing grade in at least ~~8-eight~~ 8 courses during the ~~2-two~~ 2 semesters last ending before requesting the certificate. A certificate of completion will not be requested for any person less than 18 years of age who has dropped out of school unless the individual provides:

1. Written verification of his or her enrollment in a high school equivalency or alternative education program or a high school equivalency certificate (formerly GED certificate);
2. Written verification that before dropping out, the individual had received passing grades in at least 8 courses during the ~~2-two~~ 2 previous semesters last ending before requesting a certificate;
3. Written consent from the individual's parent/guardian and the Regional Superintendent; or
4. Written waiver from the Superintendent of the School District in which the individual resides or resided at the time he or she dropped out of school, or from the chief school administrator with respect to a dropout who attended a non-public high school. A waiver may be given if the Superintendent or chief administrator deems it to be in the individual's best interests.

3. In grades 7 through 12, as well as in interscholastic athletic programs, steroid abuse prevention must be taught.¹⁴
4. In kindergarten through grade 12, provided it can be funded by private grants or the federal government, violence prevention and conflict resolution must be stressed, including: (a) causes of conflict, (b) consequences of violent behavior, (c) non-violent resolution, and (d) relationships between drugs, alcohol, and violence.¹⁵
5. In grades kindergarten through 12, age-appropriate Internet safety must be taught, the scope of which shall be determined by the Superintendent or designee. The curriculum must incorporate policy 6:235, *Access to Electronic Networks* and, at a minimum, include: (a) education about appropriate online behavior, (b) interacting with other individuals on social networking websites and in chat rooms, and (c) cyberbullying awareness and response.¹⁶
6. In all grades, character education must be taught including respect, responsibility, fairness, caring, trustworthiness, and citizenship in order to raise students' honesty, kindness, justice, discipline, respect for others, and moral courage.¹⁷
7. In all schools, citizenship values must be taught, including: (a) patriotism, (b) democratic principles of freedom, justice, and equality, (c) proper use and display of the American flag, (d) the Pledge of Allegiance, and (e) the voting process.¹⁸

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¹⁴ 105 ILCS 5/27-23.3.

¹⁵ 105 ILCS 5/27-23.4.

¹⁶ 47 C.F.R. § 54.520(c)(1)(i) and 105 ILCS 5/27-13.3 control this section. "Grades kindergarten through 12" is used because federal law requires school districts that receive E-rate funding to certify that they have an Internet safety education policy for all minors (47 C.F.R. §54.520(c)(1)(i)). This federal law defines *minors* as any individual who has not attained the age of 17 years (47 C.F.R. §54.520(a)(4)).

105 ILCS 5/27-13.3 requires a unit on Internet safety for students in grades 3 or above. It recommends ~~7~~^{seven} topics for the unit on Internet safety and required ISBE to "make available resource materials for educating children regarding child online safety." It also invites schools to "adopt an age-appropriate curriculum for Internet safety instruction of students in grades kindergarten through 12."

For boards that do not receive E-rate funds and do not want to exceed the requirements of the School Code, replace this section with the following sentence: "In grades 3 or above, the curriculum contains a unit on Internet safety, the scope of which shall be determined by the Superintendent or designee."

¹⁷ 105 ILCS 5/27-12.

Because of the negative outcomes associated with bullying in schools, the Ill. General Assembly has also found "that [school districts] should educate students, parents, and school district personnel about what behaviors constitute prohibited bullying" (105 ILCS 5/27-23.7(a), amended by P.A. 98-669). A board may want to add the following option:

Instruction in all grades should include educating students about behaviors that violate Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

The Ill. General Assembly invited boards to "make suitable provisions for instruction in gang resistance education and training in all grades and include such instruction in the courses of study regularly taught in those grades," 105 ILCS 5/27-23.10(c). A board that shares this concern may add the following option: "In addition, in all grades gang resistance education and training must be taught."

¹⁸ 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. Requirements for displaying a U.S. flag at each school and in each classroom are found in 5 ILCS 465/3 and 465/3a.

Note that the Illinois statute does not require every student to recite the *Pledge* – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the *Pledge*, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the *Pledge*. West Virginia State Board of Education v. Barnett, 319 U.S. 624 (1943); Sherman v. Community Consolidated School Dist. 21 of Wheeling Township, 980 F.2d 437 (7th Cir. 1992). Consider using permissive rather than mandatory language to introduce the recitation of the *Pledge*, such as, "You may now stand to recite the *Pledge*." Schools may, of course, require that non-participants maintain order and decorum appropriate to the school environment.

8. In all grades, physical education must be taught including a developmentally planned and sequential curriculum that fosters the development of movement skills, enhances health-related fitness, increases students' knowledge, offers direct opportunities to learn how to work cooperatively in a group setting, and encourages healthy habits and attitudes for a healthy lifestyle. Unless otherwise exempted, all students are required to engage daily during the school day in a physical education course. For exemptions and substitutions, see policies 6:310, *High School Credit for Non-District Experiences*; *Course Substitutions*; *Re-Entering Students* and 7:260, *Exemption from Physical Activity Education*.¹⁹
9. In all schools, health education must be stressed, including: (a) proper nutrition, (b) physical fitness, (c) components necessary to develop a sound mind in a healthy body, (d) dangers and avoidance of abduction, and (e) age-appropriate sexual abuse and assault awareness and prevention education in all grades. The Superintendent shall implement a comprehensive health education program in accordance with State law.²⁰
10. In all schools, career/vocational education must be taught, including: (a) the importance of work, (b) the development of basic skills to enter the world of work and/or continue formal education, (c) good work habits and values, (d) the relationship between learning and work,

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¹⁹ 105 ILCS 5/27-5 requires school boards to provide for students' physical education and allows the P.E. course offered in grades 5 through 10 to include the health education courses required by State law. [See also 23 Ill.Admin.Code §1.425, added at 40 Ill. Reg. 2990.](#)

105 ILCS 5/27-6 describes when students may be excused from daily P.E. See also 23 Ill.Admin.Code ~~§1.420(p)~~ [§1.425\(e\)](#).

~~105 ILCS 5/27-7 describes the goals and requirements for P.E. courses; these are re-stated in this sample policy.~~

105 ILCS 5/27-6 contains an exception to the daily P.E. requirement for schools engaged in block scheduling; if this is applicable, substitute this sentence for the last sentence in this paragraph:

Unless otherwise exempted, all students are required to engage daily during the school day, except on block scheduled days for those schools in block scheduling, in a physical education course.

[105 ILCS 5/27-6.5 describes physical fitness assessments required, beginning with the 2016-17 school year and every school year thereafter, for grades 3-12 in an effort to meet State Goal 20 of the Illinois Learning Standards for Physical Development and Health \(www.isbe.net/ils/pdh/pdf/goal20.pdf\). See also 23 Ill.Admin.Code §1.425 \(g\) and \(h\); ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers \(Rev. 8-25-16\)* at: \[www.isbe.net/EPE/pdf/fitness-asmt-faq.pdf\]\(#\).](#)

~~105 ILCS 5/27-7 describes the goals and requirements for P.E. courses; these are re-stated in this sample policy.~~

²⁰ 105 ILCS 110/3 and 23 Ill.Admin.Code §1.420(n). Each school system shall provide a program in compliance with the Critical Health Problems and Comprehensive Health Education Act. More detailed health education program content is described in administrative procedure 6:60-AP, *Comprehensive Health Education Program*. It includes the requirements for the development of a family life and sex education program (105 ILCS 5/27-9.1 and 110/3), among other health education topics including *teen dating violence* (105 ILCS 110/3.1, see 7:185, *Teen Dating Violence Prohibited* for the required "teen dating violence policy") and cardiopulmonary resuscitation and automated external defibrillator use (105 ILCS 110/3, amended by P.A. 98-632).

Citations for letters (a) - (e) in this paragraph follow:

- (a) 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7 (proper nutrition) and see also policy 6:50, *School Wellness*.
- (b) Id. (physical fitness) and see also policy 6:50, *School Wellness*.
- (c) Id. (sound mind and healthy body).
- (d) 105 ILCS 5/27-13.2 (dangers and avoidance of abduction). The State Police and ISBE must develop instruction on child abduction prevention (20 ILCS 2605/2605-480).
- (e) 105 ILCS 110/3 and 105 ILCS 5/10-23.13 a/k/a *Erin's Law* (child sexual abuse prevention). *Erin's Law* requires a policy addressing child sexual abuse prevention. A sentence in 6:60-AP, *Comprehensive Health Education Program* restates the basic recommendations for a child sexual abuse prevention program from page 16 of the *Erin's Law* Taskforce Final Report (Report) to Governor Quinn at: [www.isbe.state.il.us/reports/erins-law-final0512.pdf](#). The professional educator training component of *Erin's Law* is addressed in policy 5:100, *Staff Development Program*. The Report also encourages parental involvement because parents play a key role in protecting children from child sexual abuse.

and (e) if possible, a student work program that provides the student with work experience as an extension of the regular classroom. A career awareness and exploration program must be available at all grade levels.²¹

11. In grades 9 through 12, consumer education must be taught, including: (a) financial literacy, including consumer debt and installment purchasing (including credit scoring, managing credit debt, and completing a loan application); budgeting; savings and investing; banking (including balancing a checkbook, opening a deposit account, and the use of interest rates); understanding simple contracts; State and federal income taxes; personal insurance policies; the comparison of prices; higher education student loans; identity-theft security; and homeownership (including the basic process of obtaining a mortgage and the concepts of fixed and adjustable rate mortgages, subprime loans, and predatory lending); and (b) the roles of consumers interacting with agriculture, business, labor unions and government in formulating and achieving the goals of the mixed free enterprise system.²²
12. In all schools, conservation of natural resources must be taught, including: (a) home ecology, (b) endangered species, (c) threats to the environment, and (d) the importance of the environment to life as we know it.²³
13. In all schools, United States history must be taught, including: (a) the principles of representative government, (b) the Constitutions of the U.S. and Illinois, (c) the role of the U.S. in world affairs, (d) the role of labor unions, and (e) the role and contributions of ethnic groups, including but not limited to, the African Americans, Albanians, Asian Americans, Bohemians, Czechs, French, Germans, Hispanics (including the events related to the forceful removal and illegal deportation of Mexican-American U.S. citizens during the Great Depression), Hungarians, Irish, Italians, Lithuanians, Polish, Russians, Scots, and Slovaks in the history of this country and State.²⁴

In addition, all schools shall hold an educational program on the United States Constitution on Constitution Day, each September 17, commemorating the September 17, 1787 signing of the Constitution. However, when September 17 falls on a Saturday, Sunday, or holiday, Constitution Day shall be held during the preceding or following week.²⁵

14. In grade 7 and all high school courses concerning U.S. history or a combination of U.S. history and American government, students must view a Congressional Medal of Honor film made by the Congressional Medal of Honor Foundation, provided there is no cost for the film.²⁶

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

²¹ 23 Ill.Admin.Code §1.420(i). See 105 ILCS 435/ for the Vocational Education Act.

²² 105 ILCS 5/27-12.1, amended by P.A. 99-284; 23 Ill.Admin.Code §1.420(k). P.A. 99-284 added these new subjects to the required consumer education course: consumer debt, higher education student loans, and identity-theft security.

²³ 105 ILCS 5/27-13.1; 23 Ill.Admin.Code §1.420(l).

²⁴ 105 ILCS 5/27-21; 23 Ill.Admin.Code §1.420(r).

²⁵ Section 111 of Division J of Pub. L. 108-447, the Consolidated Appropriations Act, 2005, ~~Dec. 8, 2012-8-04~~; 118 Stat. 2809, 3344-45 (Section 111). Section 111(b) states: “[e]ach educational institution that receives Federal funds for a fiscal year shall hold an educational program on the U.S. Constitution on September 17 of such year”

²⁶ 105 ILCS 5/27-3.5. The Congressional Medal of Honor film is available on ISBE’s website for no cost at www.isbe.net/curriculum/html/medal_of_honor.htm.

15. In all schools, the curriculum includes a unit of instruction on the Holocaust and crimes of genocide, including Nazi atrocities of 1933-1945, Armenian Genocide, the Famine-Genocide in Ukraine, and more recent atrocities in Cambodia, Bosnia, Rwanda, and Sudan.²⁷
16. In all schools, the curriculum includes a unit of instruction on the history, struggles, and contributions of women.²⁸
17. In all schools, the curriculum includes a unit of instruction on Black History, including the history of the African slave trade, slavery in America, and the vestiges of slavery in this country, as well as the struggles and contributions of African-Americans ²⁹
18. In all schools offering a secondary agricultural education program, the curriculum includes courses as required by 105 ILCS 5/2-3.80.³⁰
19. In all schools, instruction during courses as determined by the Superintendent or designee on disability history, awareness, and the disability rights movement.³¹

LEGAL REF.: 5 ILCS 465/3 and 465/3a.
 20 ILCS 2605/2605-480.
 105 ILCS 5/2-3.80(e) and (f), 5/27-3, 5/27-3.5, 5/27-5, 5/27-6, [5/27-6.5](#), 5/27-7, 5/27-12, 5/27-12.1, 5/27-13.1, 5/27-13.2, 5/27-20.3, 5/27-20.4, 5/27-20.5, 5/27-21, 5/27-22, 5/27-23.3, 5/27-23.4, 5/27-23.7, 5/27-23.8, 5/27-23.10, 5/27-24.2, 435/, and 110/3.
 625 ILCS 5/6-408.5.
 23 Ill.Admin.Code §§1.420, [1.425](#), 1.430, and 1.440.
 Consolidated Appropriations Act of 2005, Pub. L. No. 108-447, Section 111 of Division J.
 Protecting Children in the 21st Century Act, Pub. L. No. 110-385, Title II, 122 stat. 4096 (2008).
 47 C.F.R. §54.520.

CROSS REF.: 6:20 (School Year Calendar and Day), 6:40 (Curriculum Development), 6:70 (Teaching About Religions), 6:235 (Access to Electronic Networks), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student [DisciplineBehavior](#)), 7:260 (Exemption from Physical [ActivityEducation](#))

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

²⁷ 105 ILCS 5/27-20.3 requires the curriculum to include a *unit of instruction* on this subject but does not specify the amount of time that constitutes a *unit of instruction*.

²⁸ 105 ILCS 5/27-20.5 requires the curriculum to include a *unit of instruction* on this subject but does not specify the amount of time that constitutes a *unit of instruction*. House Resolution 365 (2013) and Senate Resolution 1073 (2014) both urge all Illinois educators to share with students of an appropriate age the story of *comfort women* when discussing the history of Asia or World War II, or the issue of human trafficking.

²⁹ 105 ILCS 5/27-20.4 requires the curriculum to include a *unit of instruction* on this subject but does not specify the amount of time that constitutes a *unit of instruction*.

³⁰ 105 ILCS 5/2-3.80(e) or (f).

³¹ 105 ILCS 5/27-23.8. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. The statute requires that the instruction be founded on the principle that all students, including students with disabilities, have the right to exercise self-determination. It urges districts to request individuals with disabilities to assist with the development and delivery of this instruction and allows instruction to be supplemented by knowledgeable guest speakers.

Instruction

Education of Homeless Children¹

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

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

The Superintendent or designee shall review and revise rules or procedures that may act as barriers to the enrollment of homeless children and youths. In reviewing and revising such procedures, consideration shall be given to issues concerning transportation, immunization, residency, birth

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

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

³ Under the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11434a(2)),

"*Homeless Children*" (A) means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of section 11302(a)(1)); and (B) includes —

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

Note: Effective 12-10-16, Section §11434a(2) will no longer include children "awaiting foster care placement" within the definition of *homeless children*.

Under ~~State law~~ the Ill. Education for Homeless Children Act (105 ILCS 45/1-5),

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

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

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

⁴ 42 U.S.C. §11432(g)(1)(J)(ii).

⁵ 105 ILCS 45/1-10.

Comment [KAS1]: The policy, Legal References and footnotes are updated to align with amendments made to the McKinney-Vento Homeless Assistance Act by ESSA. Effective 12-10-16, the McKinney-Vento definition of *homeless children* will no longer include children "awaiting foster care placement."

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

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

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

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

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

⁶ The first sentences in this paragraph are required by 42 U.S.C. §11432(g)(7).

⁷ 42 U.S.C. §11432(g)(1)(J)(iii), 42 U.S.C. §11432(g)(4)(A), and 105 ILCS 45/1-15.

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

⁹ Required by 105 ILCS 45/1-25.

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." ~~Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.~~

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

Instruction

Migrant Students 1

The Superintendent will develop and implement a program to address the needs of migrant children in the District.

This program will include a means to:

1. Identify migrant students and assess their educational and related health and social needs.
2. Provide a full range of services to migrant students through appropriate local, State and federal educational programs, including applicable Title I programs, special education, gifted education, vocational education, language programs, counseling programs, and elective classes.
3. Provide migrant children with ~~the opportunity~~ full and appropriate opportunities to meet the same ~~statewide~~ challenging State academic assessment standards that all children are expected to meet.
4. Provide advocacy and outreach programs to migrant children and their families and professional development for District staff.
5. Provide programs, activities, and procedures for the engagement of parents/guardians and family members of migrant students ~~an opportunity for meaningful participation in the program in an understandable format and language.~~

Comment [KAS1]: The policy, Legal References, and footnotes are updated to reflect new Title I program requirements under §6318 of ESEA, as amended by ESSA.

Comment [MB2]: Statutory language from 20 USC §6396(a)(1)(E).

Comment [MB3]: Statutory language change in 20 USC §6391(3).

Comment [MB4]: 20 USC §6934(c)(3) requires that parents be consulted in the same manner as in §6318 (parent and family engagement – see Policy 6:170), and in a format and language understandable to parents.

Migrant Education Program for Parents/Guardians and Family Member Engagement ~~Involvement~~

Parents/guardians and family members of migrant students will be involved in and regularly consulted about the development, implementation, operation, and evaluation of the migrant program.

Parents/guardians and family members of migrant students will receive instruction regarding their role in improving the academic achievement of their children.

While some question whether the policy addressing migratory students improperly expands the scope to include *family engagement*, extension to families is not optional. See 20 USC §6318 (f), stating:
Accessibility
In carrying out the parent and family engagement requirements of this part, [school districts], to the extent practicable, shall provide opportunities for the informed participation of parents and family members (including parents and family members who have limited English proficiency, parents and family members with disabilities, and parents and family members of migratory children), including providing information and school reports required under section 6311 of this title in a format and, to the extent practicable, in a language such parents understand.

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. The first sentence of this policy allows a school board to consider the goals for its migrant education program and to amend the sample policy accordingly. The Migrant Education Program is a federally funded program authorized under Title I, Part C, of NCLB, the Elementary and Secondary Education Act (ESEA), 20 U.S.C. §6391 et seq. **Note: Section 6391 of the ESEA was amended by the Every Student Succeeds Act (ESSA), eff. 12-10-15. However applicable regulations at 34 C.F.R. §200.80 have not been updated. Amendments to the regulations are highly likely within the next year.**

To qualify for the program, a migrant child must have moved within the last ~~3~~ three years across state or school district lines with a parent or guardian or on his/her own to obtain qualifying temporary or seasonal work in agriculture or fishing. Although most of the requirements are directed to State agencies, local school districts that receive State money for these programs will be held to many of the same requirements by the State. For additional information, see NCLB, Non-Regulatory Guidance, "Education of Migratory Children," 10-23-03, at: www.ed.gov/programs/mep/mepguidance2003.doc; ISBE's collection of material about the Migrant Education Program in Illinois is available at www.isbe.net/bilingual/htmls/migrant.htm.

LEGAL REF.: [20 U.S.C. §6318.](#)
20 U.S.C. §6391 et seq.
34 C.F.R. §200.80 et seq.

CROSS REF.: 6:170 (Title I Programs)

Comment [KAS1]: The policy, Legal References, and footnotes are updated to reflect new English Learner program requirements under ESEA, as amended by ESSA.

Instruction

English Learners 1

The District offers opportunities for resident English Learners to ~~develop~~ achieve at high levels ~~of~~ in academic ~~attainment in subjects English~~ and to meet the same challenging State academic ~~content and student academic achievement~~ standards that all children are expected to ~~attain~~ meet. The Superintendent or designee shall develop and maintain a program for English Learners that will:

1. Assist all English Learners to achieve English proficiency, facilitate effective communication in English, and encourage their full participation in school activities and programs as well as promote participation by the parents/guardians of English Learners. ²
2. Appropriately identify students with limited English ~~speaking ability~~ language proficiency. 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. The assessment and accountability provisions in ~~NCLB~~ the Elementary and Secondary Education Act (ESEA), as amended by the Every Student Succeeds Act, and State law include ~~limited English Learners proficient students~~ (20 U.S.C. §§6312, 6314, 6315, and 6318-6319 and). Note: Applicable regulations at 34 C.F.R. Part 200 have not been updated; amendments to the regulations are highly likely within the next year. ^{34 C.F.R. Part 200).}

~~NCLB~~ ESEA Title III, Part A, also known as the English Language Acquisition, Language Enhancement, and Academic Achievement Act, also provides funding to support schools' efforts to help children who are English learners "~~develop~~ achieve at high levels ~~of~~ in academic ~~attainment in subjects so that all English learners can and~~ meet the same challenging State academic ~~content and student academic achievement~~ standards ~~as that~~ that all children are expected to meet," (20 U.S.C. §6812(2)(4) ~~et seq.~~). Reimbursement for programs is contingent on the submission and approval of a program plan and request for reimbursement in accordance with the requirements in 105 ILCS 5/14C-12 and 23 Ill.Admin.Code Part 228. This policy uses "English Learners" (EL) rather than "English Language Learners (ELL)" or "Limited English Proficient (LEP)." LEP and ELL are no longer terms used generally among educators and researchers in the field of English language acquisition (37 Ill. Reg. 16804). ISBE now uses the term *English learners*, which are synonymous with LEP and ELL. P.A. 99-30 ~~has~~ also deleted language from "English ~~language~~ learner."

For purposes of this policy, *English Learners* is synonymous with the ~~State law~~ School Code definition, which means: (1) all students in grades Pre-K through 12 who were not born in the United States, whose native tongue is a language other than English, and who are incapable of performing ordinary classwork in English; and (2) all students in grades Pre-K through 12 who were born in the United States of parents possessing no or limited English-speaking ability and who are incapable of performing ordinary classwork in English (105 ILCS 5/14C-2, amended by P.A. 99-30). Note: The Illinois Administrative Code definition of English Learners has not been amended since the effective date of P.A. 99-30 and still provides that English Learners means any student in preschool, kindergarten or any of grades 1 through 12, whose home language background is a language other than English and whose proficiency in speaking, reading, writing, or understanding English is not yet sufficient to provide the student with: (1) the ability to meet the State's proficiency level of achievement on State assessments; (2) the ability to successfully achieve in classrooms where the language of instruction is English, or (3) the opportunity to participate fully in the school setting (-"Limited English proficient student" and "students with limited English proficiency," as used in Article 14C of the School Code, are now English learners and 23 Ill.Admin.Code §228.10).

The Office for Civil Rights (OCR) at the U.S. Dept. of Education (ED) and the Civil Rights Division at the U.S. Department of Justice (DOJ) have issued joint guidance to assist school districts and all public schools in meeting their legal obligations to ensure that English learners can participate meaningfully and equally in educational programs and services. The guidance is available at: www2.ed.gov/about/offices/list/ocr/letters/colleague-el-201501.pdf. In support of this guidance, the Office of English Language Acquisition released an *English Learner (EL) Tool Kit* to assist school districts in providing EL students with the support necessary to achieve their full academic potential. The *Tool Kit* is available at: www2.ed.gov/about/offices/list/oela/english-learner-toolkit/index.html.

² This policy's first sentence and the first numbered paragraph both allow a school board to consider the goals for its English Learners programs; a board should amend the sample policy accordingly.

3. Comply with State law regarding the Transitional Bilingual Educational Program (TBE) or Transitional Program of Instruction (TPI), whichever is applicable. ⁴
4. Comply with any applicable State and federal requirements for the receipt of grant money for English Learners and programs to serve them. ⁵
5. Determine the appropriate instructional program and environment for English Learners. ⁶
6. Annually assess the English proficiency of English Learners and monitor their progress in order to determine their readiness for a mainstream classroom environment. ⁷
7. Include English Learners, to the extent required by State and federal law, in the District's student assessment program to measure their achievement in reading/language arts and mathematics. ⁸
8. Provide information to the parents/guardians of English Learners about: (a) the reasons for their child's identification, (b) their child's level of English proficiency, (c) the method of instruction to be used, (d) how the program will meet their child's needs, (e) how the program will specifically help their child learn English and meet age-appropriate academic achievement standards for grade promotion and graduation, (ef) specific exit requirements of the program, ~~(fg)~~ how the program will meet their child's individualized education program, if applicable, and (gh) information on parent/guardian rights. Parents/guardians will be regularly apprised of their child's progress and involvement will be encouraged. ⁹

Parent Involvement ¹⁰

Parents/guardians of English Learners will be informed how they can: (1) be involved in the education of their children, and (2) be active participants in assisting their children to attain English proficiency, achieve at high levels within a well-rounded education, and meet the challenging State academic standards expected of all students. ~~(1) given an opportunity to provide input to the program, and (2) provided notification regarding their child's placement in, and information about, the District's English Learners programs.~~

³ 23 Ill.Admin.Code §228.15. Districts must administer a home language survey to each student entering the district's schools for the first time within 30 days after the student's enrollment. The survey's purpose is to identify students of non-English background. ISBE's website contains useful information about communicating with parents/guardians, including sample Home Language Surveys and program letters in many languages (www.isbe.net/bilingual/htmls/tbe_tpi.htm).

For purposes of identifying students eligible to receive special education, districts must administer non-discriminatory procedures to English Learners coming from homes in which a language other than English is used (105 ILCS 5/14-8.02).

⁴ 105 ILCS 5/14C-3, amended by P.A. 99-30, and 23 Ill.Admin.Code §§228.25 and 228.30.

⁵ 20 U.S.C. §§6312, ~~6314, 6315, 6318, 6349~~ and 6801 et seq.; 34 C.F.R. Part 200; 105 ILCS 5/14C-1 et seq., amended by P.A. 99-30; and 23 Ill.Admin.Code Part 228.

⁶ 23 Ill.Admin.Code §228.25.

⁷ 23 Ill.Admin.Code §228.25(b).

⁸ 34 C.F.R. Part 200.

⁹ 20 U.S.C. ~~§7012(e)~~§6312(e)(3)(A) and 23 Ill.Admin.Code §228.40.

¹⁰ 20 U.S.C. ~~§7012(e)~~§6312(e)(3)(C) and 23 Ill.Admin.Code Part 228.

LEGAL REF.: 20 U.S.C. §§6312, ~~6314, 6315, and 6318-6319 and 6801.~~
20 U.S.C. §6801 et seq.
34 C.F.R. Part 200.
105 ILCS 5/14C-1 et seq.
23 Ill.Admin.Code Part 228.

CROSS REF.: 6:15 (School Accountability), 6:170 (Title I Programs), 6:340 (Student Testing and Assessment Program)

Comment [KAS1]: The policy, Incorporated by Reference, and footnotes are updated to reflect new Title I program requirements under §6318 of ESEA, as amended by ESSA.

Instruction

Title I Programs ¹

The Superintendent or designee shall pursue funding under Title I, Improving the Academic Achievement of the Disadvantaged, of the Elementary and Secondary Education Act, to supplement instructional services and activities in order to improve the educational opportunities of educationally disadvantaged or deprived children.

All District schools, regardless of whether they receive Title I funds, shall provide services that, taken as a whole, are substantially comparable. Teachers, administrators, and other staff shall be assigned to schools in a manner that ensures equivalency among the District’s schools. Curriculum materials and instructional supplies shall be provided in a manner that ensures equivalency among the District’s schools. ²

Title I Parental and Family Engagement-Involvement

Comment [MB2]: Under NCLB, 20 USC §6318 was titled “Parental Involvement.” Under ESSA, 20 USC §6318 is titled “Parent and family engagement.”

The District maintains programs, activities, and procedures for the involvementengagement of parents/guardians and families of students receiving services, or enrolled in programs, under Title I. These programs, activities, and procedures are described in District-level and School-level compacts.

District-Level Parental and Family Engagement-Involvement Compact ³

The Superintendent or designee shall develop a District-Level Parental and Family Engagement Involvement Compact according to Title I requirements. The District-Level Parental and Family Engagement-Involvement Compact shall contain: (1) the District’s expectations for parental involvement and family engagement, (2) specific strategies for effective parent and family engagementinvolvement activities to improve student academic achievement and school performance, and (3) other provisions as required by federal law. The Superintendent or designee shall ensure that the Compact is distributed to parents/guardians of students receiving services, or enrolled in programs, under Title I.

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 is mandatory for any district that receives or desires to receive Title I funds.** Title I is part of the Elementary and Secondary Education Act (20 U.S.C. §6301 et seq.). It was amended by the No Child Left Behind Act (NCLB)Every Student Succeeds Act (ESSA, eff. 12-10-15). NCLB was signed on 1-8-02 and officially expired on 9-30-07. NCLB remains in effect due to a continuing resolution but must be reauthorized. The U.S. Dept. of Education invited each State educational agency (ISBE in Illinois) to request flexibility regarding NCLB requirements in exchange for rigorous and comprehensive State developed plans designed to improve educational outcomes, close achievement gaps, increase equity, and improve instructional quality. See www2.ed.gov/policy/elsee/guid/eSEA-flexibility/index.html.

ISBE’s focus on NCLB flexibility is reported at www.isbe.state.il.us/nclb_waivers/default.htm.

² This paragraph, or similar language, is mandatory for each district receiving Title I funds (20 U.S.C. §6321(c)).

³ 20 U.S.C. §6318(a) requires each district receiving Title I funds to “develop jointly with, agree on with, and distribute to, parents of participating children a written parent and family engagementinvolvement policy.” This requirement is accomplished in this sample policy by mandating the superintendent or designee to develop a District-Level Parental and Family Engagement-Involvement Compact, according to Title I requirements. A sample District-Level Parental and Family Engagement-Involvement Compact is contained in 6:170-AP1, E1, District-Level Parental and Family Engagement Involvement Compact. A sample process for developing a parental and family engagement-involvement compact is contained in 6:170-AP1, Checklist for Development, Implementation, and Maintenance of Parental and Family Engagement Involvement Compacts for Title I Programs.

School-Level Parent~~al~~ and Family Engagement-~~Involvement~~ Compact ⁴

Each Building Principal or designee shall develop a *School-Level Parent~~al~~ and Family Engagement-~~Involvement~~ Compact* according to Title I requirements. This *School-Level Parent~~al~~ and Family Engagement-~~Involvement~~ Compact* shall contain: (1) a process for continually involving parents/guardians in its development and implementation, (2) how parents/guardians, the entire school staff, and students share the responsibility for improved student academic achievement, (3) the means by which the school and parents/guardians build and develop a partnership to help children achieve the State's high standards, and (4) other provisions as required by federal law. Each Building Principal or designee shall ensure that the *Compact* is distributed to parents/guardians of students receiving services, or enrolled in programs, under Title I.

Incorporated
by Reference:

6:170-AP1, E1 (District-Level Parent~~al~~ and Family Engagement-~~Involvement~~ Compact) and 6:170-AP1, E2 (School-Level Parent~~al~~ and Family Engagement-~~Involvement~~ Compact)

LEGAL REF.: Title I of the Elementary and Secondary Education Act, 20 U.S.C. §6301-6514.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 4:110 (Transportation), 5:190 (Teacher Qualifications), 5:280 (Duties and Qualifications), 6:15 (School Accountability), 6:140 (Education of Homeless Children), 6:145 (Migrant Students), 6:160 (English Learners), 7:10 (Equal Educational Opportunities), 7:30 (Student Assignment), 7:60 (Residence), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 8:95 (Parental Involvement)

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

⁴ 20 U.S.C. §6318(b) requires each school served under Title I to "jointly develop with, and distribute to, parents and family members of participating children a written parent and family engagement~~involvement~~ policy, agreed on by such parents, that shall describe the means for carrying out the requirements of subsections (c) through (f) of this section." This requirement is accomplished in this sample policy by mandating the building principal or designee to develop a *School-Level Parent~~al~~ and Family Engagement-~~Involvement~~ Compact*, according to Title I requirements. A sample *School-Level Parent~~al~~ and Family Engagement-~~Involvement~~ Compact* is contained in 6:170-AP1, E2, *School-Level Parent~~al~~ and Family Engagement-~~Involvement~~ Compact*. A sample process for developing a parental involvement compact is contained in 6:170-AP1, *Checklist for Development, Implementation, and Maintenance of Parent~~al~~ and Family Engagement-~~Involvement~~ Compacts for Title I Programs*.

6:170

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Instruction

High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students ¹

Credit for Non-District Experiences ²

A student may receive high school credit for successfully completing any of the listed courses or experiences even when it is not offered in or sponsored by the District:

1. Distance learning course, including a correspondence, virtual, or online course
2. Courses in an accredited foreign exchange program
3. Summer school or community college courses ³
4. College courses offering dual credit courses at both the college and high school level ⁴
5. Foreign language courses taken in an ethnic school program approved by the Illinois State Board of Education ⁵
6. Work-related training at manufacturing facilities or agencies in a Youth Apprenticeship Vocational Education Program (Tech Prep) ⁶

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 that several of the programs in this policy be covered in policy. State law controls this policy's content. Note that 23 Ill.Admin.Code § 1.420(b) requires "[e]very school district [to] have an organized plan for recording pupil progress and/or awarding credit, including credit for courses completed by correspondence, on-line, or from other external sources, that can be disseminated to other schools within the State." Section 1.460 requires "[e]ach local board of education with a high school [to] adopt a policy which defines the board's position with reference to the awarding of high school credit on the basis of local examinations to pupils who have achieved the necessary proficiencies through independent study, either with or without private tutoring, or for work taken in or from another institution."

Sample policy 6:185, *Remote Educational Program*, provides for educational programs **delivered by the district** in a location outside of the school.

Sample policy 6:315, *High School Credit for Students -in Grade 7 or 8*, allows students enrolled in grade 7 or 8 to enroll in a course required for high school graduation (105 ILCS 5/27-22.10(a), amended by P.A. 99-189, and 23 Ill.Admin.Code § 1.440(c)(3)).

² Each board may choose for which, if any, of the listed non-district experiences the district will grant high school credit. If a district does not grant credit for any of the listed activities, substitute the following alternative for all text in the entire section: "The District does not grant graduation credit for learning experiences that an enrolled student does not complete through the District."

³ 105 ILCS 5/27-22.1 provides that no fewer than 60 hours of classroom instruction in summer school is required for one semester of high school course credit. Districts may accept courses completed in a community college toward graduation (23 Ill.Admin.Code § 1.440(f)). Superintendents, pursuant to 105 ILCS 5/10-21.4, must annually report to ISBE the number of students enrolled in accredited courses at any community college along with the name(s) and number(s) of the course(s) each student is taking (105 ILCS 2-3.142).

⁴ The Dual Credit Quality Act, 110 ILCS 27, defines dual credit as a college course taken by a high school student for credit at both the college and high school level. An instructor who teaches a dual credit course does not need the certification required by Article 21 of the School Code. Dual credit programs will require cooperation between the school district and the institution providing the dual credit courses (see the Higher Education Student Assistance Act at 110 ILCS 947/10 for a definition of *institution*). A high school evaluation of a dual credit program must also incorporate the analysis of data from ISBE's statewide longitudinal data system (see the P-20 Longitudinal Education Data System Act, 105 ILCS 13/, for more information).

⁵ 105 ILCS 5/2-3.44 and 5/10-22.43a. An ethnic school is a part-time, private school that teaches the foreign language of a particular ethnic group as well as the culture, geography, history, and other aspects of a particular ethnic group. For requirements, see 23 Ill.Admin.Code § 1.465.

7. Credit earned in a Vocational Academy ⁷

The student must seek approval from the Superintendent or designee to receive graduation credit for any non-District course or experience. The Superintendent or designee shall determine the amount of credit and whether a proficiency examination is required before the credit is awarded. As approval is not guaranteed, students should seek conditional approval of the experience before participating in a non-District course or experience. The student assumes responsibility for any fee, tuition, supply, or other expense. The student seeking credit is responsible for (1) providing documents or transcripts that demonstrate successful completion of the experience, and (2) taking a proficiency examination, if requested. The Superintendent or designee shall determine which, if any, non-District courses or experiences, will count toward a student's grade point average, class rank, and eligibility for athletic and extracurricular activities. This section does not govern the transfer of credits for students transferring into the District.

Substitutions for Required Courses

Vocational or technical education.⁸ A student in grades 9-12 may satisfy one or more high school courses (including physical education) or graduation requirements by successfully completing related vocational or technical education courses if:

1. The Building Principal approves the substitution and the vocational or technical education course is completely described in curriculum material along with its relationship to the required course; and
2. The student's parent/guardian requests and approves the substitution in writing on forms provided by the District.

Advanced placement computer science.⁹ The advanced placement computer science course is equivalent to a high school mathematics course. A student in grades 9-12 may substitute the advanced placement computer science course for one year of mathematics, in accordance with Section 27-22 of the School Code. The transcript of a student who completes the advanced placement computer science course will state that it qualifies as a mathematics-based, quantitative course.

Substitutions for physical education. A student in grades 9-12, unless otherwise stated, may submit a written request to the Building Principal to be excused from physical education courses for the

⁶ The State Superintendent and Board of Higher Education were encouraged by 105 ILCS 5/2-3.115 to establish a program of academic credit for youth apprenticeship vocational education programs, which could be instituted by school districts. See also 23 Ill.Admin.Code §1.445.

⁷ Vocational Academies Act, 105 ILCS 433/. The Act's purpose is to "integrate workplace competencies and career and technical education with core academic subjects." School districts are permitted to partner with community colleges, local employers, and community-based organizations to establish a vocational academy that functions as a ~~two~~-year school within a school for grades 10 through 12. Grant funds may be available from ISBE when the vocational academy meets statutory requirements.

⁸ Allowing this substitution is optional, but, if offered, must be included in board policy (105 ILCS 5/27-22.05). The *related* requirement is met if the course contains at least 50% of the content of the required course. 23 Ill.Admin.Code §1.445 requires that the vocational or technical education course be completely described in the policy along with its relationship to the required course. The sample policy satisfies these requirements by referring to the courses as described in curricular material.

ISBE requires that the parent/guardian of a student under the age of 18 request the course substitution "on forms that the school district makes available" and that the request must be maintained in the student's temporary record (23 Ill.Admin.Code §1.445). See 6:310-E, *Class Substitution Request*.

⁹ Optional, but allowed by 105 ILCS 5/27-22, ~~amended by P.A. 98-885~~.

reasons stated below.¹⁰ The Superintendent or designee shall maintain records showing that the criteria set forth in this policy were applied to the student's individual circumstances, as appropriate.¹¹

1. Enrollment in a marching band program for credit;
2. Enrollment in Reserve Officer's Training Corps (ROTC) program sponsored by the District;
3. Ongoing participation in an interscholastic athletic program (student must be in the 11th or 12th grade);
4. Enrollment in academic classes that are required for admission to an institution of higher learning (student must be in the 11th or 12th grade); or
5. Enrollment in academic classes that are required for graduation from high school, provided that failure to take such classes will result in the student being unable to graduate (student must be in the 11th or 12th grade).

~~A student requiring adapted physical education must receive that service in accordance with his or her Individualized Educational Program/Plan (IEP).~~

A student who is eligible for special education may be excused from physical education courses pursuant to 7:260, *Exemption from Physical Education*, in either of the following situations:¹²

- ~~1. He or she (a) is in grades 3-12, (b) his or her IEP requires that special education support and services be provided during physical education time, and (c) the parent/guardian agrees or the IEP team makes the determination; or~~
- ~~2. He or she (a) has an IEP, (b) is participating in an adaptive athletic program outside of the school setting, and (c) the parent/guardian documents the student's participation as required by the Superintendent or designee.~~

Volunteer service credit.¹³ A student participating in the District's Volunteer Service Credit Program, if any, may earn credit toward graduation for the performance of community service. The amount of credit given for program participation shall not exceed that given for completion of one semester of language arts, math, science, or social studies.

Re-Entering Students ¹⁴

Individuals younger than 21 years of age may re-enter high school to acquire a high school diploma or an equivalency certificate, subject to the limitations in Board policy 7:50, *School Admissions and*

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

¹⁰ Optional, but allowed by 105 ILCS 5/27-6; 23 Ill.Admin.Code §1.420~~(p)~~^(e) and (f) (added at 40 Ill. Reg. 2990). A board that wants to allow any of these P.E. exemptions must include the ones it selects in a policy that excuses students on an individual basis.

This policy excuses students from P.E. only during the marching band season because the statute allows the exemption "for ongoing participation in such marching band program." Thus, if the marching band season is over, the student's *ongoing participation* has ceased and the student no longer qualifies for the P.E. exemption. Common sense, however, would allow the exemption to continue until the end of the current grading period.

~~11~~ ¹¹ 23 Ill.Admin.Code §1.425(f).

~~12~~ 105 ILCS 5/27-6.

¹³ Optional. The credit given for one semester may not exceed that stated in this policy (105 ILCS 5/27-22.3). The program may include participation in the organization of a high school or community blood drive or other blood donor recruitment campaign. ISBE must provide assistance to districts opting to offer the program (105 ILCS 5/2-3.108).

¹⁴ Required by 23 Ill.Admin.Code §1.470(a). While the sample policy does not provide for it, a school board may permit adults 21 years of age or older to re-enter high school (23 Ill.Admin.Code §1.470(b)). Items #4 & #5 are optional, but must be included in a policy if credit will be granted for them.

Comment [KAS2]: This is managed in 7:260, *Exemption from Physical Activity Education*.

Comment [KAS3]: Added to push the user to a more appropriate place, 7:260, *Exemption from Physical Activity Education*. This avoids the language being in two places.

Student Transfers To and From Non-District Schools. Re-entering students may obtain credit through the successful completion of the following (not all of these may be available at any one time):

1. District courses
2. Non-District experiences described in this policy
3. Classes in a program established under Section 10-22.20 of the School Code, in accordance with the standards established by the Illinois Community College Board
4. Proficiency testing, correspondence courses, life experiences, and other nonformal educational endeavors
5. Military service, provided the individual making the request has a recommendation from the U.S. Commission of Accreditation of Service Experiences

The provisions in the section **Credit for Non-District Experiences**, above, apply to the receipt of credit for any non-District course.

LEGAL REF.: 105 ILCS 5/2-3.44, 5/2-3.108, 5/2-3.115, 5/2-3.142, 5/10-22.43a, 5/27-6, 5/27-22.3, and 5/27-22.05.
23 Ill.Admin.Code §§1.420~~(p)~~**5(e) and (f)**, 1.440(f), and 1.470(c).

CROSS REF.: 6:180 (Extended Instructional Programs), 6:300 (Graduation Requirements), 6:315 (High School Credit for Students in Grade 7 or 8), 6:320 (High School Credit for Proficiency), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:260 (Exemption from Physical ~~Activity~~**Education**)

Comment [KAS1]: Policy, footnotes, and Legal References are updated in response to 105 ILCS 5/10-17a, amended by P.A. 99-642 and 105 ILCS 5/22-82, added by P.A. 99-590

Instruction

Student Testing and Assessment Program ¹

The District student assessment program provides information for determining individual student achievement and instructional needs; curriculum and instruction effectiveness; and school performance measured against District student learning objectives and statewide norms.

The Superintendent or designee shall manage the student assessment program that, at a minimum:

1. Administers the State assessment system, known as the *Partnership for Assessment of Readiness for College and Careers* (PARCC), to all students and/or any other appropriate assessment methods and instruments, including norm and criterion-referenced achievement tests, aptitude tests, proficiency tests, and teacher-developed tests.
2. Informs students of the timelines and procedures applicable to their participation in every State assessment. ²
3. Provides each student's parents/guardians with the results or scores of each State assessment and an evaluation of the student's progress. See policy 6:280, *Grading and Promotion*. ³
4. Utilizes professional testing practices. ⁴

Overall student assessment data on tests required by State law will be aggregated by the District and reported, along with other information, on the District's annual report card.⁵ All reliable assessments administered by the District and scored by entities outside of the District must be (1) reported to ISBE on its form by the 30th day of each school year, and (2) made publicly available to parents and

Comment [KAS2]: Policy and Legal References are updated because of a new law requiring assessment reports.

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. Until ~~July 1, 2017~~-1-14, 105 ILCS 5/2-3.64 contained the State assessment program; it was repealed by P.A. 98-972.

105 ILCS 5/2-3.64a-5, added by P.A. 98-972, requires ISBE to "establish the academic standards that are to be applicable to students who are subject to State assessments." It contains the schedule for assessing students by calendar year and grade. ISBE selected the *Partnership for Assessment of Readiness for College and Careers* (PARCC) as the State assessment and accountability measure. For ISBE resource material, see www.isbe.net/assessment. In House Joint Resolution 54 (2015), members of the Ill. House and Senate encouraged school districts to not use results of the PARCC test for the 2014-2015 school year through the 2017-2018 school year "as a determining factor for making decisions about a student's educational opportunities, the evaluation of educators, and the allocation of resources based on educational achievement on this assessment."

105 ILCS 5/2-3.64a-5(d), added by P.A. 98-972 and P.A. 99-30 (deleted *language* from "English ~~language~~ learner), contains the requirements for assessing students receiving special education services and students determined to be English learners.

² Required by 105 ILCS 5/2-3.64a-5(c), added by P.A. 98-972.

³ 105 ILCS 5/2-3.64a-5(e), added by P.A. 98-972, requires districts to provide State assessment results/scores to students' parents/guardians. The second part of this provision is optional and may be deleted, i.e. "~~and an evaluation of the student's progress.~~"

⁴ 105 ILCS 5/2-3.107; 23 Ill. Admin. Code §1.30(a).

⁵ Required by 105 ILCS 5/10-17a, amended by P.A. ~~99-642~~~~98-648~~. School districts must annually, by October 31, submit to parents/guardians, district taxpayers, the Governor, the General Assembly, and ISBE a school report card assessing the performance of its schools and students. The school report card must describe student characteristics, curriculum information, student outcomes and progress, and school environment. The environment report must include indicators from the *school climate survey* approved under 105 ILCS 5/2-3.153, ~~amended by P.A. 98-648~~ (requires ISBE, in addition to its default school climate survey, to identify 2 or 3 alternative school survey instruments from which districts may select).

[guardians of students](#).⁶ Board policy 7:340, *Student Records*, and its implementing procedures govern recordkeeping and access issues. ⁷

LEGAL REF.: Family Educational Rights and Privacy Act, 20 U.S.C. §1232g.
105 ILCS 5/2-3.63a-5, 5/2-3.64a-5, 5/10-17a, [5/22-82](#), and 5/27-1.

CROSS REF.: 6:15 (School Accountability), 6:280 (Grading and Promotion), 7:340 (Student Records)

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

⁶ [105 ILCS 5/22-82, added by P.A. 99-590, requires every school district to report for each of its schools, by the 30th day of each school year, all reliable assessments the district administers that are scored by entities outside of the district. The district must make the report on an ISBE-provided form, starting with the 2016-2017 school year. At the date of publication, ISBE announced in its *Weekly Message* that it sent a survey tool to report the required information the week of 10-3-16 \(See *Message From State Supt. on 10-4-16* at: \[www.isbe.net/board/archivemessages/2016/message-10042016.pdf\]\(http://www.isbe.net/board/archivemessages/2016/message-10042016.pdf\)\). Because districts have a wide range of starting dates, ISBE will likely establish a reporting window for providing this information.](#)

[Each school must also make this information publicly available to the parents and guardians of its students through the district's Internet website or distribute the information in paper form \(Id. at \(b\)\). See 2:250, E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.](#)

⁷ 105 ILCS 5/2-3.64a-5(e), ~~added by P.A. 98-972~~, governs recording assessment results in school student records.

Students

Student and Family Privacy Rights ¹

Surveys ²

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

Surveys Created by a Third Party ³

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

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

Survey Requesting Personal Information ⁴

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

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

~~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 requires this subject matter be covered by policy. State or federal law controls this policy's content. ~~The No Child Left Behind Act significantly changed the Protection of Pupil Rights Act, aka the Hatch Amendments.~~ The Protection of Pupil Rights Act requires any school district, "that receives funds under any applicable program [to] develop and adopt policies, in consultation with parents, regarding [statutory privacy rights]." (20 U.S.C. §1232h(c)(1)). ~~Any applicable program~~ generally refers to any federal program administered by the U.S. Department of Education (20 U.S.C. §1221(c)). ~~Consultation with parents~~ is not defined; boards are advised, at minimum, to publicize the issue and request public comment during the policy's adoption.

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

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

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

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

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

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

Comment [KAS1]: The policy, Cross References, and footnotes are updated. The **Physical Exams or Screenings** subhead refers to an extracurricular drug and alcohol testing program, which is included in policy 7:240, *Conduct Code for Participants in Extracurricular Activities* and a Cross Reference to that policy is added. A footnote is amended to remind boards to delete references to an extracurricular drug and alcohol testing program and policy 7:240 if it elects not to have one. A footnote is updated to delete reference to NCLB, repealed by passage of ESSA.

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

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

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

Instructional Material ⁷

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

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

Physical Exams or Screenings ⁹

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

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

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⁵ Id.

⁶ 20 U.S.C. §1232h(c)(2)(A)(ii).

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

⁸ 20 U.S.C. §1232h(c)(6)(A).

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

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

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

1. Is permitted or required by an applicable State law, including physical examinations or screenings that are permitted without parental notification. **10**
2. Is administered to a student in accordance with the Individuals with Disabilities Education Act (20 U.S.C. §1400 et seq.). **11**
3. ~~Is administered pursuant to the District's extracurricular drug and alcohol testing program (see Policy 7:240, *Conduct Code for Participants in Extracurricular Activities*) otherwise authorized by Board policy.~~ **12**
- ~~3-4. Is otherwise authorized by Board policy.~~ **13**

Selling or Marketing Students' Personal Information Is Prohibited **13**

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

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

1. College or other postsecondary education recruitment, or military recruitment.
2. Book clubs, magazines, and programs providing access to low-cost literary products.
3. Curriculum and instructional materials used by elementary schools and secondary schools.
4. Tests and assessments to provide cognitive, evaluative, diagnostic, clinical, aptitude, or achievement information about students (or to generate other statistically useful data for the purpose of securing such tests and assessments) and the subsequent analysis and public release of the aggregate data from such tests and assessments.
5. The sale by students of products or services to raise funds for school-related or education-related activities.
6. Student recognition programs.

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

10 20 U.S.C. §1232h(c)(4)(B)(ii).

11 20 U.S.C. §1232h(c)(5)(A)(ii).

12 ~~Delete if the board has not adopted a drug- and alcohol testing program for extracurricular participants. that policy should be referenced here and added to this policy's cross references. (See the optional program in 7:240, *Conduct Code for Participants in Extracurricular Activities*.) Also delete reference to 7:240, *Conduct Code for Participants in Extracurricular Activities* in this policy's cross references.~~

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

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

15 id.

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

Notification of Rights and Procedures **17**

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

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

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

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

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

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

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

16 105 ILCS 5/10-20.38.

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

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

19 20 U.S.C. §1232h(c)(5)(B).

Comment [KAS1]: The policy, Cross References, and footnotes are updated to delete reference to transfers pursuant to Title I covered in 6:15, *School Accountability*— such transfers are no longer required due to the repeal of NCLB by ESSA.

Students

Student Assignment and Intra-District Transfer 1

Attendance Areas

The School District is divided into school attendance areas. The Superintendent will review the boundary lines annually and recommend any changes to the School Board.² The Superintendent or designee shall maintain a map of the District showing current school attendance areas. Students living in a given school attendance area will be assigned to that school.³ Homeless children shall be assigned according to Board policy 6:140, *Education of Homeless Children*.

Transfers Within the District 4

A student's parent(s)/guardian(s) may request a transfer for their child to a District school other than the one assigned. A request should be directed to the Superintendent, who, at his or her sole discretion, may grant the request when the parent(s)/guardian(s) demonstrate that the student could be better accommodated at another school, provided space is available. If a request is granted, the parent/guardian shall be responsible for transportation.⁵ The provisions in this section have no applicability to transfers pursuant to: ~~(1) Title I covered in Board policy 6:15, *School Accountability*, or (2) the Unsafe School Choice Option covered in Board policy 4:170, *Safety*.~~

Class Assignments

The Superintendent or designee shall assign students to classes.

LEGAL REF.: 105 ILCS 5/10-21.3, 5/10-21.3a, and 5/10-22.5.

CROSS REF.: 4:170 (Safety), ~~6:15 (*School Accountability*)~~, 6:30 (Organization of Instruction), 6:140 (Education of Homeless Children)

~~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 that intra-district transfers be covered by policy and controls this policy's content (105 ILCS 5/10-21.3a).~~

~~² School attendance areas must be periodically revised, if necessary, to prevent or eliminate segregation by color, race, or nationality (105 ILCS 5/10-21.3).~~

~~³ State law grants boards broad authority concerning assignment of students to schools (105 ILCS 5/10-22.5). A child is presumed to be a resident of the district in which the child's legal custodian parents, or custodial parent after a divorce, resides (105 ILCS 5/10-20.12b). The facts surrounding a transfer of custody will determine whether residency for school attendance purposes has changed. *Turner v. Board of Education North Chicago Community High School District 123*, 294 N.E.2d 264 (Ill. 1973).~~

~~⁴ The details for intra-district transfers are determined locally; State law does not address when, or even if, intra-district transfers should be granted. See sample policy 6:15, *School Accountability*, for transfers pursuant to Title I. For districts that maintain one attendance center, delete this subhead.~~

~~⁵ To limit the acceptable reasons supporting a transfer request, a board should consider this alternative: "...when the parent(s)/guardian(s) demonstrate that the student could be better accommodated by the educational program at another school"~~

Students

School Admissions and Student Transfers To and From Non-District Schools ¹

Age [Elementary or Unit Districts only]

To be eligible for admission, a child must be ~~five~~⁵ years old on or before September 1 of that school term.² A child entering first grade must be ~~six~~⁶ years of age on or before September 1 of that school term.³ Based upon an assessment of the child's readiness, a child will be allowed to attend first grade if he or she attended a non-public preschool, continued his or her education at that school through kindergarten, was taught in kindergarten by an appropriately licensed teacher, and will be ~~six~~⁶ years old on or before December 31.⁴ A child with exceptional needs who qualifies for special education services is eligible for admission at ~~three~~³ years of age.⁵ ⁶

Admission Procedure

All students must register for school each year on the dates and at the place designated by the Superintendent. Parents/guardians of students enrolling in the District for the first time must present:

1. A certified copy of the student's birth certificate. If a birth certificate is not presented, the Superintendent or designee shall notify in writing the person enrolling the student that within

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¹ State law requires some of the subject matter contained in this sample policy to be covered by policy and controls this policy's content. Boards must adopt a policy on school admissions (105 ILCS 5/10-21.2) and restricting a student from transferring from another school while under a suspension or expulsion from that school (105 ILCS 5/10-22.6). A *registration guidance document*, updated annually, is available from the Ill. State Board of Education (ISBE) at: www.isbe.net/pdf/guidance_reg.pdf.

² 105 ILCS 5/10-20.12. The district may, however, establish a kindergarten for children between the ages of 4 and 6 years old (105 ILCS 5/10-20.19a and 5/10-22.18). Any child between the ages of 7 and 17 (unless the child has already graduated from high school) must attend public or private school, with certain exceptions allowed for physical and mental disability, lawful employment, or other reasons as specified by statute (105 ILCS 5/26-1). The phrase "a child between the ages of 7 and 17" is liberally construed to fully carry out the true intent and meaning of the General Assembly (5 ILCS 70/1.01), which is to ensure that students graduate from high school (105 ILCS 5/26-1). Therefore "the ages of 7-17" means a child is 17 until his or her 18th birthday.

³ Optional sentence.

⁴ Required by 105 ILCS 5/10-20.12. Use the following alternative in a district operating on a full year school basis:

To be eligible for admission, a child must be at least ~~five~~⁵ years old within 30 days after the commencement of that school term. Based upon an assessment of the child's readiness, a child may attend first grade if he or she attended a non-public preschool and continued his or her education at that school through kindergarten, was taught in kindergarten by an appropriately licensed teacher, and will attain age ~~six~~⁶ within ~~four~~⁴ months after the commencement of the term.

⁵ 105 ILCS 5/14-1.02 and 5/14-1.03a. An ISBE rule states: "Each school district shall be responsible for actively seeking out and identifying all children from birth through age 21 within the district (and those parentally-placed private school children for whom the district is responsible under 34 C.F.R. §300.131) who may be eligible for special education and related services," (23 Ill.Admin.Code §226.100). Note that after a child is determined to be eligible for special education services, the child must be placed in the appropriate program no later than the beginning of the next school semester (105 ILCS 5/14-8.02~~(b)~~).

⁶ 105 ILCS 5/10-20.12. Districts that wish to permit early admission may add the following optional paragraph:

Parents/guardians may request early admission for a child. The Superintendent or designee shall assess the child's readiness to attend school and make the decision accordingly.

Districts that implement this option should also consider implementing specific and objective criteria for early admissions and address such issues as who pays the costs for assessments, etc. Using this exception defeats the age requirement rules because it only relies upon a child's readiness, regardless of his or her age.

30 days he or she must provide a certified copy of the student's birth certificate. A student will be enrolled without a birth certificate.⁷ When a certified copy of the birth certificate is presented, the school shall promptly make a copy for its records, place the copy in the student's temporary record, and return the original to the person enrolling the child. If a person enrolling a student fails to provide a certified copy of the student's birth certificate, the Superintendent or designee shall immediately notify the local law enforcement agency, and shall also notify the person enrolling the student in writing that, unless he or she complies within ~~40~~-ten days, the case will be referred to the local law enforcement authority for investigation. If compliance is not obtained within that ~~40~~ten-day period, the Superintendent or designee shall so refer the case. The Superintendent or designee shall immediately report to the local law enforcement authority any material received pursuant to this paragraph that appears inaccurate or suspicious in form or content.⁸

2. Proof of residence, as required by Board policy 7:60, *Residence*.
3. Proof of disease immunization or detection and the required physical examination, as required by State law and Board policy 7:100, *Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students*.⁹

The individual enrolling a student shall be given the opportunity to voluntarily state whether the student has a parent or guardian who is a member of a branch of the U. S. Armed Forces and who is either deployed to active duty or expects to be deployed to active duty during the school year.¹⁰ Students who are children of active duty military personnel transferring will be allowed to enter: (a)

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⁷ Presenting a certified copy of a student's birth certificate is a missing children's law enforcement issue **that may not be used for denying enrollment**. See **Guidance Documents** subhead in 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*, for more information about enrollment and residency issues. Consult the board attorney if a student cannot produce a certified copy of his or her birth certificate and wishes to provide a passport, visa or other governmental documentation of identity. To balance the tension between the missing children's laws reporting requirements and *Plyler v. Doe*, many attorneys advise not to report a student's failure to produce a birth certificate; however always consult the board attorney for assistance based upon the specific facts of the enrollment situation (see f/n 8 below).

⁸ Two almost identical laws govern this requirement: Missing Children Records Act (325 ILCS 50/) and Missing Children Registration Law (325 ILCS 55/). We reconciled their differences as much as possible but chiefly used the language from the Registration Law because it has the clearest explanation. The statutory enforcement requirements, as nonsensical as they may seem, are quoted in the policy. **Important:** Schools cannot deny admission based upon immigration (illegal) status alone. Note that singling out foreign-looking students for visa requests is probably illegal discrimination. See *Plyler v. Doe*, 102 S.Ct. 2382 (1982). See also f/n 12 below.

According to the State Police, a certified copy of the student's birth certificate is the only acceptable proof of the child's identity and age (20 Ill.Admin.Code §1290.60(a)). For more discussion about acceptable proof of identity, see f/n 1 in 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*. The Missing Children's Records Act requires schools to make prompt copies of these certified copies. Once made, schools need not request another certified copy with respect to that child for any other year in which the child is enrolled in that school or other entity. While the Act does not mandate where the copy should be kept, it is appropriate for placement in the student's temporary record. See 23 Ill.Admin.Code §375.10. The school person who receives the copy of the certified birth certificate should initial and date the document. That way, if there is a question or an investigation (which can happen even years after enrollment) there will not be an issue as to who received the document and the date it was processed.

A district must also *flag* a student's record on notification by the State police of the student's disappearance and report to the State police any request for a *flagged* student record.

⁹ Each school must maintain records for each student that reflect compliance with the examinations and immunizations required by 105 ILCS 5/27-8.1; 23 Ill.Admin.Code §1.530(a). A Tuberculosis skin test is required if the student lives in an area designated by the Dept. of Public Health as having a high incidence of Tuberculosis.

¹⁰ This paragraph is optional in the policy; it reflects the requirements of State and federal law. P.A. 99-30 repealed the Military Compact Act at 105 ILCS 5/22-65 because of the Educational Opportunity for Military Children Act; this exact language is not contained in the recoded Educational Opportunity for Military Children Act, 105 ILCS 70/.

the same grade level in which they studied at the school from which they transferred, if the transfer occurs during the District's school year, or (b) the grade level following the last grade completed.¹¹

Homeless Children

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce records normally required for enrollment.¹² Board policy 6:140, *Education of Homeless Children*, and its implementing administrative procedure, govern the enrollment of homeless children.

Foster Care Students

The Superintendent will appoint at least one employee to act as a liaison to facilitate the enrollment and transfer of records of students in the legal custody of the Illinois Department of Children and Family Services when enrolling in or changing schools. ¹³

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¹¹ Optional ~~sentence~~. The Educational Opportunity for Military Children Act, 105 ILCS 70/33, ~~added by P.A. 98-673~~, further details enrollment and entrance requirements for children of active military personnel. After enrollment, the law allows a district to perform evaluations to ensure appropriate placement of the student. Course, program, graduation, extracurricular(s), and other placement options for this student population are further discussed in 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*.

¹² Required by 105 ILCS 45/ and the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 ~~et seq.~~ ~~amended by the No Child Left Behind Act~~. See §11432(g)(3)(C)(i).

¹³ Optional. 105 ILCS 5/10-20.58, added by P.A. 99-781, allows school boards to appoint liaisons for foster care students. These liaisons must be licensed under Article 21B of the School Code. 105 ILCS 5/10-20.58 directs how employees are prioritized for liaison appointment. Liaisons are "encouraged to build capacity and infrastructure within their school district to support students in the legal custody of the Department of Children and Family Services." Liaison responsibilities may include:

1. Streamlining the enrollment process for students in foster care;
2. Implementing student data tracking and monitoring mechanisms;
3. Ensuring that students in DCFS custody receive all school nutrition and meal programs available;
4. Coordinating student withdrawal from a school, record transfers, and credit recovery;
5. Becoming experts on the foster care system and State laws and policies in place that support students in DCFS custody;
6. Coordinating with child welfare partners;
7. Providing foster care-related information and training to the district;
8. Working with DCFS to help students maintain their school placement, if appropriate;
9. Reviewing student schedules to ensure students are on track to graduate;
10. Encouraging a successful transition into adulthood and post-secondary opportunities;
11. Encouraging involvement in extracurricular activities; and
12. Knowing what support is available within the district and community for students in DCFS custody.

Student Transfers To and From Non-District Schools¹⁴

A student may transfer into or out of the District according to State law and procedures developed by the Superintendent or designee. A student seeking to transfer into the District must serve the entire term of any suspension or expulsion, imposed for any reason by any public or private school, in this or any other state, before being admitted into the School District.

Foreign Students [High School or Unit Districts only]¹⁵

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

¹⁴ 105 ILCS 5/2-3.13a requires each transferor (original) school to keep documentation of transfers in the student's record. It also requires "notification [by the transferee (recipient) school] of the transfer on or before July 31 following the school year during which the student withdraws from the transferor school or school district or the student shall be counted in the calculation of the transferor school's or school district's annual student dropout rate." ISBE rule, 23 Ill.Admin.Code §375.75(e), is consistent with this requirement. The rule also requires the transferring school or district to maintain any documentation of the student's transfer, including records indicating the school or school district to which the student transferred, in that student's temporary record.

Out-of-state transfer students, including children of military personnel, may use unofficial transcripts for admission to a school until official transcripts are obtained from the student's last school district (105 ILCS 5/10-8.1 & 70/32, ~~added by P.A. 98-673~~). See also 7:50-AP, *School Admissions and Student Transfers To and From Non-District Schools*.

A board has ~~two~~ basic options for students transferring into the district who are serving a suspension or expulsion. Under option one, it may comply with the minimum requirements of section 2-3.13a by refusing to allow a student transferring from any public school to attend classes until the period of any suspension or expulsion has expired when the penalty was for: (1) knowingly possessing in a school building or on school grounds a weapon as defined in the Gun Free Schools Act, (2) knowingly possessing, selling, or delivering in a school building or on school grounds a controlled substance or cannabis, or (3) battering a staff member of the school. Under option two, a board may require a student who was suspended or expelled for any reason from any public or private school in this or any other state to complete the entire term of the suspension or expulsion before being admitted to the school district. The sample policy uses the second, more simple, more comprehensive alternative.

A board may adopt a policy providing that if a student is suspended or expelled for any reason from any school, anywhere, the student must complete the suspension's or expulsion's entire term in an alternative school program under Article 13A before being admitted into the school district if there is no threat to the safety of students or staff in the alternative program (105 ILCS 5/2-3.13a; 5/10-22.6-(g)). If a board wants to provide for this alternative, it may add the following to either of the above options:

The Superintendent is authorized to allow a student who was suspended or expelled from any public or private school to be placed in an alternative school program established under Article 13A of the School Code for the remainder of the suspension or expulsion.

¹⁵ Generally, a citizen of a foreign country who wishes to enter the U.S. must first obtain either: (1) a nonimmigrant visa (for temporary stay for tourism, medical treatment, business, temporary work, or study), or (2) an immigrant visa for permanent residence. Common visas presented by foreign students are:

1. J-1 nonimmigrant visas for participants in educational and cultural exchange programs designated by the U.S. Department of State, Exchange Visitor Program, and Designation Staff. These students are enrolled provided they otherwise qualify for admission. For information about J-1 visas and the Exchange Visitor Program, see j1visa.state.gov/programs.
2. F-1 nonimmigrant student visa. F-1 visas are not issued for attendance at an elementary or middle school (K-8). Before obtaining an F-1 student visa, the individual must submit evidence that the school district has been reimbursed for the unsubsidized per capita cost of the education. These students are enrolled provided they otherwise qualify for admission. However, attendance at U.S. public high schools cannot exceed a total of 12 months.
3. B-2 visitor nonimmigrant visas. There is disagreement over whether these students must be enrolled tuition free. Their *visitor* visa is evidence of non-resident status. Call INS or the district's attorney for guidance.
4. The qualified school-age child of an alien who holds another type of visa (i.e., A, E, H, I, L, etc.), other than a visitor visa. These students are enrolled provided they otherwise qualify for admission. Likewise, dependents of foreign nationals on long-term visas are enrolled provided they otherwise qualify for admission.
5. No immigration documentation. *Plyler v. Doe*, 102 S.Ct. 2382 (1982). A school cannot deny admission based upon immigration (illegal) status alone. Note that singling out foreign-looking students for visa requests is probably illegal discrimination. Thus, undocumented aliens are enrolled, provided they otherwise qualify for admission.
6. Immigrant visa. These students are enrolled provided they otherwise qualify for admission.

The District accepts foreign exchange students with a J-1 visa and who reside within the District as participants in an exchange program sponsored by organizations screened by administration. Exchange students on a J-1 visa are not required to pay tuition.¹⁶

Privately sponsored exchange students on an F-1 visa may be enrolled if an adult resident of the District has temporary guardianship, and the student lives in the home of that guardian. Exchange students on an F-1 visa are required to pay tuition at the established District rate.¹⁷ F-1 visa student admission is limited to high schools, and attendance may not exceed 12 months.

The Board may limit the number of exchange students admitted in any given year. Exchange students must comply with District immunization requirements. Once admitted, exchange students become subject to all District policies and regulations governing students.

Re-enrollment¹⁸ [*High School or Unit Districts only*]

Re-enrollment shall be denied to any individual 19 years of age or above who has dropped out of school and who could not earn sufficient credits during the normal school year(s) to graduate before his or her 21st birthday. However, at the Superintendent's or designee's discretion and depending on program availability, the individual may be enrolled in a graduation incentives program established under 105 ILCS 5/26-16 or an alternative learning opportunities program established under 105 ILCS 5/13B-1 (see 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*). Before being denied re-enrollment, the District will offer the individual due process as required in cases of expulsion under policy 7:210, *Expulsion Procedures*. A person denied re-enrollment will be offered counseling and be directed to alternative educational programs, including adult education programs that lead to graduation or receipt of a GED diploma. This section does not apply to students eligible for special education under the Individuals with Disabilities Education Improvement Act or accommodation plans under the Rehabilitation Act, Section 504.

The Student and Exchange Visitor Information System (SEVIS) is an Internet-based system that provides tracking and monitoring, with access to accurate and current information on nonimmigrant students (F and M visas) and exchange visitors (J visa), and their dependents (F-2, M-2, and J-2). See §641, Illegal Immigration Reform and Immigrant Responsibility Act. Section 641 is an exception to the Family Educational Rights and Privacy Act. See 8 C.F.R. §214.1(h). SEVIS enables schools and program sponsors to transmit electronic information and event notifications, via the Internet, to the INS and Department of State throughout a student's or exchange visitor's stay. SEVIS will provide system alerts, event notifications, and reports to the end-user schools and programs, as well as for INS and DOS offices.

According to federal regulations, students who apply for F-1, M-1, F-3, or M-3 visas must pay a \$100 fee, and students who apply for J-1 visas must pay a \$35 fee, to the Department of Homeland Security. The regulations describe when and how the fee is to be paid, who is exempt from the fee, and the consequences for failure to pay (8 C.F.R. Parts 103, 214, and 299).

Important: ~~Admitting students on an F-1 visa may require the district to admit students transferring from another district under NCLBA's school choice provisions. See policy 7:60, *Residence*.~~

¹⁶ State law allows, but does not require, boards to waive nonresident tuition for these students (105 ILCS 5/10-22.5a).

¹⁷ Exchange students on F-1 visas must pay the full-unsubsidized public education costs before entering the U.S. (8 U.S.C. §1101). Boards may not waive the fee.

¹⁸ 105 ILCS 5/26-2(b). The requirements in this section are provided in State law, that is: (1) it is mandatory that a district deny re-enrollment as provided in this section, (2) it is permissive whether to enroll the individual in a district graduation incentives program or alternative learning opportunities program (although depending on circumstances, a student below the age of 20 may be entitled to enroll in a graduation incentives program), (3) it is mandatory to provide due process before denying re-enrollment, (4) it is mandatory to offer the individual who is denied re-enrollment counseling and to direct that person to alternative educational programs, and (5) it is mandatory that this section not apply to students eligible for special education.

105 ILCS 5/26-2(c) allows a district to deny enrollment to a student 17 years of age or older for one semester for failure to meet minimum academic or attendance standards if certain conditions are met. See policy 7:70, *Attendance and Truancy*.

LEGAL REF.:

[Family Educational Rights and Privacy Act, 20 U.S.C. §1232.](#)
McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 *et seq.*
[Family Educational Rights and Privacy Act, 20 U.S.C. §1232.](#)
Illegal Immigrant and Immigrant Responsibility Act of 1996, 8 U.S.C. §1101.
Individuals With Disabilities Education Improvement Act, 20 U.S.C. §1400 *et seq.*
Rehabilitation Act, Section 504, 29 U.S.C. §794.
105 ILCS 5/2-3.13a, 5/10-20.12, 5/10-22.5a, 5/14-1.02, 5/14-1.03a, 5/26-1, 5/26-2,
5/27-8.1, 10/8.1, 45/, and 70/.
325 ILCS 50/ and 55/.
410 ILCS 315/2e.
20 Ill.Admin.Code Part 1290, Missing Person Birth Records and School
Registration.
23 Ill.Admin.Code Part 375, Student Records.

Comment [KAS2]: Relocated because Legal References are listed in numerical order.

CROSS REF.:

[4:110 \(Transportation\)](#), 6:30 (Organization of Instruction), 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping out of School and Graduation Incentives Program), 6:140 (Education of Homeless Children), 6:300 (Graduation Requirements), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students), 7:60 (Residence), 7:70 (Attendance and Truancy), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:340 (Student Records)

Students

Residence¹

Resident Students

Only students who are residents of the District may attend a District school without a tuition charge, except as otherwise provided below or in State law.² A student's residence is the same as the person who has legal custody of the student.³

A person asserting legal custody over a student, who is not the child's natural or adoptive parent, shall complete a signed statement, stating: (a) that he or she has assumed and exercises legal responsibility for the child, (b) the reason the child lives with him or her, other than to receive an education in the District, and (c) that he or she exercises full control over the child regarding daily educational and medical decisions in case of emergency. If the District knows the current address of the child's natural or adoptive parent, the District shall request in writing that the person complete a signed statement or Power of Attorney stating: (a) the role and responsibility of the person with whom their child is living, and (b) that the person with whom the child is living has full control over the child regarding daily educational and medical decisions in case of emergency.⁴

A student whose family moves out of the District during the school year will be permitted to attend school for the remainder of the year without payment of tuition.⁵

When a student's change of residence is due to the military service obligation of the student's legal custodian, the student's residence is deemed to be unchanged for the duration of the custodian's military service obligation if the student's custodian made a written request. The District, however, is not responsible for the student's transportation to or from school.⁶

If, at the time of enrollment, a dependent child of military personnel is housed in temporary housing located outside of the District, but will be living within the District within 60 days after the time of

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

² In certain cases, no tuition may be charged for non-resident children placed: (1) by DCFS with a foster parent or childcare facility (105 ILCS 5/10-20.12b); or (2) with a person who (i) has temporary custody of a child of a person who is on active military duty, and (ii) is responsible for making decisions for that child (105 ILCS 70/-added by P.A. 96-953). When special education services are provided, *resident district* is determined by 105 ILCS 5/14-1.11 and 14-1.11a.

³ In the case of divorced or divorcing parents, the Illinois Marriage and Dissolution of Marriage Act, 750 ILCS 5/, amended by P.A. 99-90, provides that "for purposes of Section 10-20.12b of the School Code only, the parent with the majority of parenting time is considered to have legal custody." See 750 ILCS 5/606.10. P.A. 99-90 also requires a parenting plan that sets forth a child's residential address for school enrollment purposes (750 ILCS 5/602.10(f)(6)). Consult the board attorney when the residential address set forth in a parenting plan is not the address of the parent with the majority of parenting time.

⁴ 105 ILCS 5/10-20.12b. In order to establish residence, a school district may not require a parent to transfer custody/guardianship to the person with whom the child is living. Israel S. by Owens v. Board of Education of Oak Park and River Forest High School Dist. 200, 601 N.E.2d 1264 (Ill.App. 1992). See also Joel R. v. Board of Education of Manheim School Dist. 83, 686 N.E.2d 650 (Ill.App. 1997).

⁵ 105 ILCS 5/10-20.12a.

⁶ 105 ILCS 5/10-20.12b(a-5).

Comment [KAS1]: The policy, Cross References, and footnotes are updated:

1. The policy now aligns with amendments to residency challenge procedures under 105 ILCS 5/10-20.12b made by P.A. 99-670, eff. 1-1-17.

2. ~~Non-resident~~ is changed to nonresident for consistency with the School Code.

3. A new footnote addresses divorced or divorcing parents under the Illinois Marriage and Dissolution of Marriage Act, 750 ILCS 5/, as amended by P.A. 99-90.

4. References to NCLB's school choice provisions are deleted due to the statute's repeal by the passage of ESSA.

initial enrollment, the child is allowed to enroll, subject to the requirements of State law, and must not be charged tuition.⁷

Requests for ~~Non-Resident~~ Student Admission ⁸

Non-resident students may attend District schools upon the approval of a request submitted by the student's parent(s)/guardian(s) for non-resident admission. The Superintendent may approve the request subject to the following:⁹

1. The student will attend on a year-to-year basis. Approval for any one year is not authorization to attend a following year.
2. The student will be accepted only if there is sufficient room.
3. The student's parent(s)/guardian(s) will be charged the maximum amount of tuition as allowed by State law.¹⁰
4. The student's parent(s)/guardian(s) will be responsible for transporting the student to and from school.

Admission of Non-~~Resident~~ Students Pursuant to an Agreement or Order¹¹

Non-resident students may attend District schools tuition-free pursuant to:

1. A written agreement with an adjacent school district to provide for tuition-free attendance by a student of that district, provided both the Superintendent or designee and the adjacent district determine that the student's health and safety will be served by such attendance.
2. A written agreement with cultural exchange organizations and institutions supported by charity to provide for tuition-free attendance by foreign exchange students and non-resident pupils of charitable institutions.
3. According to an intergovernmental agreement.
4. Whenever any State or federal law or a court order mandates the acceptance of a non-resident student.

Homeless Children

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce records normally required to establish residency.¹² School Board policy 6:140,

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

⁷ 105 ILCS 5/10-22.5a. Military personnel must provide proof that the child will be living within the district within 60 days after the date of initial enrollment. Proof of residency may include postmarked mail addressed to the military personnel and sent to an address located within the district, a lease agreement for occupancy of a residence located within the district, or proof of ownership of a residence located within the district.

⁸ Optional. ~~IMPORTANT: Admitting non-resident students under this section probably requires the district to admit students transferring from another district under NCLBA's school choice provision. Thus, a board that will reject any invitation to enter into an intergovernmental agreement to accept non-resident students under NCLBA's school choice should delete this section.~~ A district that wants to include this subhead should specify and customize the listed criteria to match local conditions.

⁹ State law is silent regarding non-resident student enrollment except to require the parent(s)/guardian(s) to pay tuition (105 ILCS 5/10-20.12a and 5/10-20.12b).

¹⁰ 105 ILCS 5/10-20.12a specifies a formula for calculating the maximum amount a district can charge non-resident students.

¹¹ ~~If a board intends to reject any invitation to accept non-resident students under NCLBA's school choice, it should seek its attorney's opinion before entering into any agreement described in this section.~~ The agreement described in #1 is optional (105 ILCS 5/10-22.5a) and districts are not required to enter into such agreements nor to alter existing transportation services due to the attendance of such non-resident students. The agreement described in #2 is optional (105 ILCS 5/10-22.5a); districts should be sure it is consistent with policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*. An example of an agreement described in #3 is one to accept non-resident students ~~under the NCLBA's school choice provisions~~; entering into such an agreement is optional.

Comment [MB2]: Amended for consistency with the School Code, which uses "nonresident," not "non-resident."

Education of Homeless Children, and its implementing administrative procedure, govern the enrollment of homeless children.

Challenging a Student's Residence Status¹³

If the Superintendent or designee determines that a student attending school on a tuition-free basis is a non-resident of the District for whom tuition is required to be charged, he or she on behalf of the School Board shall notify the person who enrolled the student of the tuition amount that is due. The notice shall detail the specific reasons why the Board believes that the student is a nonresident of the District¹⁴ and ~~The notice~~ shall be given by certified mail, return receipt requested. The person who enrolled the student may challenge this determination and request a hearing as provided by the School Code, 105 ILCS 5/10-20.12b.

LEGAL REF.: McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.
105 ILCS 5/10-20.12a, 5/10-20.12b, and 5/10-22.5.
105 ILCS 45/ and 70/
23 Ill.Admin.Code §1.240.
Israel S. by Owens v. Board of Educ. of Oak Park and River Forest High School
Dist. 200, 601 N.E.2d 1264 (Ill.App.1, 1992).
Joel R. v. Board of Education of Manheim School District 83, 686 N.E.2d 650
(Ill.App.1, 1997).
Kraut v. Rachford, 366 N.E.2d 497 (Ill.App.1, 1977).

CROSS REF.: ~~6:15 (School Accountability containing "School Choice for Students Enrolled in a School Identified for Improvement, Corrective Action, or Restructuring");~~
6:140 (Education of Homeless Children), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:70 (Attendance and Truancy)

¹² Required by 105 ILCS 45/1-1 et seq. and the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq., ~~as amended by the NCLBA~~. See §11432 (g)(3)(C)(i).

¹³ Id. See administrative procedure 7:60-AP, *Challenging a Student's Residence Status*, for sample procedures implementing this paragraph.

¹⁴ 105 ILCS 5/10-20.12b, as amended by P.A. 99-670, eff. 1-1-17.

Comment [KAS1]: The policy, Cross References, and footnotes are updated throughout. 105 ILCS 5/26-1, amended by P.A. 99-804 (eff. 1-1-17) (students sounding *Taps* at a military honors funeral held in Illinois for a deceased veteran).

Students

Attendance and Truancy ¹

Compulsory School Attendance ²

This policy applies to individuals who have custody or control of a child: (a) ~~between the ages of six (on or before September 1) and 17 years (unless the child has graduated from high school), whose age meets the compulsory attendance age listed in State law,~~ or (b) who is enrolled in any of grades, kindergarten through 12, in the public school regardless of age. ~~Unless a student has already graduated from high school, compulsory attendance ages are as follows:~~

~~Before the 2014-2015 school year, students between the ages of 7 and 17 years.~~

~~Beginning with the 2014-2015 school year, students between the ages of 6 (on or before September 1) and 17 years.~~

Subject to specific requirements in State law, the following children are not required to attend public school: (1) any child attending a private school (including a home school) or parochial school, (2) any child who is physically or mentally unable to attend school (including a pregnant student suffering medical complications as certified by her physician), (3) any child lawfully and necessarily employed, (4) any child over 12 and under 14 years of age while in confirmation classes, (5) any child absent because his or her religion forbids secular activity on a particular day, and (6) any child 16 years of age or older who is employed and is enrolled in a graduation incentives program.

The parent/guardian of a student who is enrolled must authorize all absences from school and notify the school in advance or at the time of the student's absence. A valid cause for absence includes illness, observance of a religious holiday, death in the immediate family, family emergency, other situations beyond the control of the student, other circumstances that cause reasonable concern to the

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 boards to adopt a policy covering some of the topics herein and controls this policy's content. 105 ILCS 5/26-13 requires a policy ~~identifying~~ supportive services and available resources for truants. 23 Ill.Admin.Code §1.290 requires the same plus ~~that the policy contains~~ a definition of *valid cause* for absence ~~in accordance with 105 ILCS 5/26-2a and a description of diagnostic procedures to identify the cause(s) of absenteeism.~~

² 105 ILCS 5/26-2, ~~amended by P.A. 98-544, eff. 7-1-14,~~ addresses enrolled students below or over set compulsory attendance ages. The law also requires any persons having custody or control of a child who is enrolled in grades kindergarten through 12 in the public school to cause the child to attend school.

~~After the 2014-2015 school year begins, amend the first paragraph as follows:~~

~~This policy applies to individuals who have custody or control of a child: (a) between the ages of 6 (on or before September 1) and 17 years (unless the child has graduated from high school) whose age meets the compulsory attendance age listed in State law, or (b) who is enrolled in any of grades, kindergarten through 12, in the public school regardless of age. Unless a student has already graduated from high school, compulsory attendance ages are as follows:~~

~~1. Before the 2014-2015 school year, students between the ages of 7 and 17 years.~~

~~2. Beginning with the 2014-2015 school year, students between the ages of 6 (on or before September 1) and 17 years.~~

105 ILCS 5/26-1, ~~amended by P.A. 98-544, eff. 7-1-14,~~ contains the compulsory school age exemptions. Each listed exception is specifically included in the statute, except the reference to *home school*. See policy 7:40, *Nonpublic School Students, Including Parochial and Home-Schooled Students*, regarding assigning students who enroll from a non-public school. See policy 6:150, *Home and Hospital Instruction*, regarding providing instruction to a pregnant student who is medically unable to attend school.

parent/guardian for the student's safety or health, or other reason as approved by the Superintendent or designee. 3

Absenteeism and Truancy Program

The Superintendent or designee shall manage an absenteeism and truancy program in accordance with the School Code and School Board policy. The program shall include but not be limited to:

1. A protocol for excusing a student from attendance who is necessarily and lawfully employed. The Superintendent or designee is authorized to determine when the student's absence is justified. 4
- ~~1-2.~~ A protocol for excusing a student in grades 6 through 12 from attendance to sound Taps at a military honors funeral held in Illinois for a deceased veteran. 5
- ~~2-3.~~ A process to telephone, within ~~two~~ hours after the first class, the parents/guardians of students in grade 8 or below who are absent without prior parent/guardian notification. 6
- ~~3-4.~~ A process to identify and track students who are truants, chronic or habitual truants, or truant minors as defined in the School Code, Section 26-2a.
- ~~4-5.~~ MethodsA description of diagnostic procedures for identifying the cause(s) of a student's unexcused absenteeism, including interviews with the student, his or her parent(s)/guardian(s), and staff members or other people who may have information about the reasons for the student's attendance problem. 7
- ~~5-6.~~ The identification of supportive services that may be offered to truant or chronically truant students, including parent-teacher conferences, student and/or family counseling, or

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3 These reasons are in 105 ILCS 5/26-2a, ~~amended by P.A. 97-218~~, except that "other reason as approved by the Superintendent" was added. ISBE rule requires that the absenteeism and truancy policy defines valid causes for absence (23 Ill.Admin.Code §1.290). ~~P.A. 97-218 changed the definition of chronic or habitual truant, which is now "a child who is subject to compulsory school attendance and who is absent without valid cause from such attendance for 5% or more of the previous 180 regular attendance days." P.A. 97-975 replaced the Juvenile Court Act's definition of chronic truant with a reference to the definition in Sec. 26-2a of the School Code.~~

4 Any child "necessarily and lawfully employed" may be exempted from attendance by the superintendent "on certification of the facts by and the recommendation of the school board" (105 ILCS 5/26-1). The policy's language serves to delegate this "certification of the facts" to the superintendent or designee. The following option allows a board to consider and include specific criteria in the policy:

A student may be excused, at the Superintendent's discretion, when: (1) the student has a last period study hall, (2) the parent/guardian provides written permission, (3) the student's employer provides written verification of employment, (4) the student provides evidence of a valid work permit, or (5) other reason deemed justifiable by the Superintendent.

Child Labor laws include: 29 C.F.R. Part 570 (minimum age standards, occupations, conditions, etc.); 820 ILCS 205/ (child labor laws); 56 Ill.Admin.Code Part 250 (child labor regulations).

~~5~~ 105 ILCS 5/26-1, amended by P.A. 99-804, eff. 1-1-17. A student must notify the building principal or other administrator at least two days prior to the absence providing the date, time, and location of the military honors funeral. This requirement may be waived if the student did not receive notice at least two days in advance, but the student shall notify the administration as soon as possible of the absence.

A student whose absence is excused to sound Taps shall be counted in attendance for purposes of calculating the average daily attendance of students in the district. The district must allow the student reasonable time to make up school work and if school work is satisfactorily completed, the day of absence is counted as an attendance day for the student.

6 This notification is required by 105 ILCS 5/26-3b.

~~7 Each district must have a policy describing diagnostic procedures to identify the cause(s) of absenteeism and supportive services and available resources for truants and chronic truants (105 ILCS 5/26-12; 23 Ill.Admin.Code §1.290(b)(2)).~~

information about community agency services.⁸ See Board policy 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*.

- ~~6-7.~~A process to request the assistance and resources of outside agencies, such as, the juvenile officer of the local police department or the truant office of the appropriate Regional Office of Education, if truancy continues after supportive services have been offered. ⁹
- ~~7-8.~~A protocol for cooperating with non-District agencies including County or municipal authorities, the Regional Superintendent, truant officers, the Community Truancy Review Board, and a comprehensive community based youth service agency. Any disclosure of school student records must be consistent with Board policy 7:340, *Student Records*, as well as State and federal law concerning school student records. ¹⁰
- ~~8-9.~~An acknowledgement that no punitive action, including out-of-school suspensions, expulsions, or court action, shall be taken against a chronic truant for his or her truancy unless available supportive services and other school resources have been provided to the student. ¹¹
- ~~9-10.~~The criteria to determine whether a student's non-attendance is due to extraordinary circumstances shall include economic or medical necessity or family hardship and such other criteria that the Superintendent believes qualifies. ¹²

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

⁸ 23 Ill.Admin.Code §1.290. The School Code references to dropout prevention include: 105 ILCS 5/26-3a (regional superintendent activities and annual report); 105 ILCS 5/10-20.25a (annual report by boards); and 105 ILCS 5/1A-4(E) (State Board of Education report).

⁹ Use this alternative for districts in suburban Cook County: replace "Regional Office of Education" with "appropriate Intermediate Service Center." Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." ~~P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.~~

¹⁰ 105 ILCS 5/26-9 requires school officers and superintendents to assist truant officers. A minor who is reported by the regional superintendent as a chronic truant may be adjudicated a "truant minor in need of supervision" if the minor declines or refuses to fully participate in truancy intervention services (705 ILCS 405/3-33.5).

Counties ~~and municipalities~~ may regulate truants by ordinance and impose fines and/or community services on truants or, if the truant is under 10 years of age, on the parent or custodian (55 ILCS 5/5-1078.2). Municipalities may regulate truants by ordinance and impose fines and/or community services on truants or, if the truant is under 13 years of age, on the parent or custodian and (65 ILCS 5/11-5-9). ~~Such~~ local officials or authorities that enforce, prosecute, or adjudicate municipal ordinances adopted under ~~55 ILCS 5/5-1078.2 and~~ 65 ILCS 5/11-5-9, or that work with school districts to address truancy problems, are designated as (i) part of the juvenile justice system, established by the Juvenile Court Act of 1987, and (ii) *juvenile authorities* within the definition set forth in subsection (a)(6.5) of Section 10-6 of the Ill. School Student Records Act (~~105 ILCS 10/6(a)(6.5).~~ ~~Id.~~). **A superintendent should consult with the board attorney before disclosing school student records to non-district entities.** See 7:340-AP, *Student Records* for a sample procedure for release of such records to juvenile authorities.

¹¹ 105 ILCS 5/26-12 prohibits punitive action "unless available supportive services and other school resources have been provided to the student."

¹² 105 ILCS 5/26-3a requires the district to "establish, in writing, a set of criteria for use by the local superintendent of schools in determining whether a pupil's failure to attend school is the result of extraordinary circumstances, including but not limited to economic or medical necessity or family hardship."

[For high school and unit districts only]

~~10-11~~.A process for a 17--year--old resident to participate in the District's various programs and resources for truants.¹³ The student must provide documentation of his/her dropout status for the previous ~~six~~6 months. A request from an individual 19 years of age or older to re-enroll after having dropped out of school is handled according to provisions in 7:50, *Students School Admissions and Student Transfers To and From Non-District Schools*.

~~11-12~~.A process for the temporary exclusion of a student 17 years of age or older for failing to meet minimum academic or attendance standards according to provisions in State law. A parent/guardian has the right to appeal a decision to exclude a student. ¹⁴

LEGAL REF.: 105 ILCS 5/26-1 through 16.
705 ILCS 405/3-33.5.
23 Ill.Admin.Code §§1.242 and 1.290.

CROSS REF.: 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 6:150 (Home and Hospital Instruction), 7:10 (Equal Educational Opportunities), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:80 (Release Time for Religious Instruction/Observance), 7:190 (Student [DisciplineBehavior](#)), 7:340 (Student Records)

This statute also requires the "clerk or secretary" of the board to quarterly report to the regional superintendent and Secretary of State the identity of students who were removed from the regular attendance roll, exclusive of transferees, because they were expelled; have withdrawn; left school; withdrew due to extraordinary circumstances; have re-enrolled in school since their names were removed from the attendance rolls; were certified to be chronic or habitual truants; or were previously certified as chronic or habitual truants who have resumed regular school attendance. The statute provides that the status of a driver's license or instructional permit will be jeopardized for a student who is the subject of this notification because of non-attendance unless the non-attendance is due to extraordinary circumstances as determined by the local district. State Superintendent Koch announced in his *Weekly Message*, 8-28-07, www.isbe.net/board/archivemessages/message_082807.pdf, p.2, that ISBE is delaying implementing this statute based upon legal guidance from the U.S. Department of Education's Family Policy Compliance Office that its implementation would violate the ~~F~~ederal ~~F~~amily ~~E~~ducational Rights and Privacy Act.

¹³ A district must allow this participation; the length of the drop-out period and the documentation requirement contained in the next sentence are permissive (105 ILCS 5/26-14).

¹⁴ Optional, but provided in 105 ILCS 5/26-2(c)~~(3)~~; ISBE's rule controls the appeal process, 23 Ill.Admin.Code §1.242.

RENAMED

~~October February~~ 2016

7:190

Comment [KAS1]: The policy has not changed.

Students

~~This policy becomes effective and replaces the current policy on Student Discipline on the first student attendance day of the 2016-2017 school year.~~

Comment [KAS2]: The effective date for SB 100 has passed. This is no longer necessary. Effective dates are deleted from the footnotes. Other quality assurance updates are made throughout.

Student Behavior (formerly known as Student Discipline) ¹

The goals and objectives of this policy are to provide effective discipline practices that: (1) ensure the safety and dignity of students and staff; (2) maintain a positive, weapons-free, and drug-free learning environment; (3) keep school property and the property of others secure; (4) address the causes of a student's misbehavior and provide opportunities for all individuals involved in an incident to participate in its resolution; and (5) teach students positive behavioral skills to become independent, self-disciplined citizens in the school community and society. ²

When and Where Conduct Rules Apply ³

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

¹ All districts must have a policy on student discipline, including school searches and bullying prevention (105 ILCS 5/10-20.14, amended by P.A. 99-456, eff. 9-15-2016); re-engagement of students returning from an exclusionary discipline or an alternative school (105 ILCS 5/10-22.6(b-25), amended by P.A. 99-456, eff. 9-15-2016); and corporal punishment (105 ILCS 5/24-24). See also 23 Ill.Admin.Code §1.280. See the Cross References for policies on searches and bullying. Each district must furnish a copy of the discipline policy to parents/guardians within 15 days after the beginning of the school year, or within 15 days after starting classes for a student who transfers into the district. The school board must require that each school inform its pupils of the discipline policy's contents.

School boards, along with the parent-teacher advisory committee, must annually review their pupil discipline policies, those policies' implementation, and any other factors related to the safety of their schools, students, and staff (105 ILCS 5/10-20.14(a), amended by P.A. 99-456, eff. 9-15-2016). The parent-teacher advisory committee should meet to discuss the changes to this policy necessitated by P.A. 99-456 before the legislation's effective date of 9-15-2016. For more information about the parent-teacher advisory committee, see board policy 2:150, *Committees*. The parent-teacher advisory committee, in cooperation with local law enforcement agencies, must develop, with the school board, a reciprocal reporting system (105 ILCS 5/10-20.14(b), amended by P.A. 99-456, eff. 9-15-2016). See 7:190-AP3, *Guidelines for Reciprocal Reporting of Criminal Offenses Committed by Students*. School districts are encouraged to create memoranda of understanding that define law enforcement's role in schools. See 7:190-E3, *Memorandum of Understanding*.

Given the unique concerns facing school officials, school disciplinary codes are not required to be drafted as narrowly or with the same precision as criminal statutes. *Bethel School Dist. v. Fraser*, 106 S.Ct. 3159 (1986).

² The goals and objectives in this policy give the board a focus for monitoring it. This list can be deleted, replaced, or modified by the board. Data on student discipline is available at www.isbe.net/research/htmls/eoy_report.htm.

³ Board policy should provide a jurisdictional statement telling students and staff the circumstances under which the district will take disciplinary action. Jurisdictional rules in board policy should generally be as broad as possible to give staff members authority to respond to unforeseen situations. Taking jurisdiction over off-campus misconduct generally survives the test of reasonableness when the misconduct has a direct nexus to the school. A countervailing interest concerns liability for off-campus student injuries, i.e., the greater the jurisdiction a district is willing to impose, the greater the scope of liability it may be assuming. Ultimately, a decision whether to discipline for off-campus misconduct requires a factual inquiry to determine the degree of nexus and impact on the school. Many decisions address disciplining a student for off-campus misconduct; for example, see: *J.S. v. Blue Mountain Sch. Dist.*, combined with *Layshock v. Hermitage Sch. Dist.*, 650 F.3d 205 (3d Cir. 2011), cert. denied 2012 WL 117558 (U.S.) (absent evidence that parodies of school personnel caused, or could cause, substantial disruption, school districts may not punish out-of-school expressive conduct, even if it is lewd, indecent, or offensive speech).

Note that the law is different regarding participants in athletics and extracurricular activities. See policy 7:240, *Conduct Code for Participants in Extracurricular Activities*.

A judge may transfer a student to another school for committing stalking or non-consensual sexual contact against another student, or for aiding and abetting such an act; the parents/guardians are responsible for transportation and other costs associated with the transfer (Stalking No Contact Order Act and the Civil No Contact Order Act, 740 ILCS 21/80 and 22/213). A school district is seldom notified when a transfer order is requested. When notified, school officials should immediately seek the board attorney's advice concerning available options.

7:190

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A student is subject to disciplinary action for engaging in *prohibited student conduct*, as described in the section with that name below, whenever the student's conduct is reasonably related to school or school activities, including, but not limited to:

1. On, or within sight of, school grounds before, during, or after school hours or at any time;
2. Off school grounds at a school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school;
3. Traveling to or from school or a school activity, function, or event; or
4. Anywhere, if the conduct interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including, but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. ⁴

Prohibited Student Conduct ⁵

The school administration is authorized to discipline students for gross disobedience or misconduct, including but not limited to:

1. Using, possessing, distributing, purchasing, or selling tobacco or nicotine materials, including without limitation, electronic cigarettes. ⁶
2. Using, possessing, distributing, purchasing, or selling alcoholic beverages. ⁷ Students who are under the influence of an alcoholic beverage are not permitted to attend school or school functions and are treated as though they had alcohol in their possession.
3. Using, possessing, distributing, purchasing, selling, or offering for sale:
 - a. Any illegal drug or controlled substance, or cannabis (including medical cannabis, marijuana, and hashish). ⁸
 - b. Any anabolic steroid unless it is being administered in accordance with a physician's or licensed practitioner's prescription. ⁹

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

⁴ The factual context will determine the appropriateness of taking jurisdiction. Contact the board attorney before disciplining a student for off-campus conduct. See *Doe v. Superintendent of Schools of Stoughton*, 767 N.E.2d 1054 (Mass., 2002)(suspension for off-campus commission of a felony was upheld).

⁵ Consult the board attorney for advice on deleting or modifying any of the items in this section on prohibited student conduct.

⁶ 105 ILCS 5/10-20.5b prohibits use of tobacco on school property. Federal law prohibits smoking within schools by anyone (Pro-Children Act of 1994, 20 U.S.C. §6081). Districts that fail to comply risk a civil penalty of up to \$1,000 per violation per day. See policy 8:30, *Visitors to and Conduct on School Property*, for more information.

State and federal law have not yet addressed electronic cigarettes. An electronic or e-cigarette resembles a regular cigarette. It contains a battery-operated heating element that turns a liquid into a mist for inhaling. The liquid may contain nicotine. Information, albeit limited, is posted on the U.S. Food and Drug Administration website at:

www.fda.gov/tobaccoproducts/default.htm

www.fda.gov/NewsEvents/PublicHealthFocus/ucm172906.htm

www.fda.gov/newsevents/publichealthfocus/ucm252360.htm

⁷ Alcoholic beverages are defined in 235 ILCS 5/1-3.01 to 3.05.

⁸ Controlled substance is defined in 720 ILCS 570/102; cannabis is defined in 720 ILCS 550/3. Either spelling, *marihuana* or *marijuana*, is correct; however, *marijuana* is more common. See f/n 11 for a discussion of medical cannabis.

⁹ Anabolic steroid is defined in 720 ILCS 570/102(c-1).

- c. Any performance-enhancing substance on the Illinois High School Association’s most current banned substance list unless administered in accordance with a physician’s or licensed practitioner’s prescription. **10**
- d. Any prescription drug when not prescribed for the student by a physician or licensed practitioner, or when used in a manner inconsistent with the prescription or prescribing physician’s or licensed practitioner’s instructions. The use or possession of medical cannabis, even by a student for whom medical cannabis has been prescribed, is prohibited. **11**
- e. Any inhalant, regardless of whether it contains an illegal drug or controlled substance: (a) that a student believes is, or represents to be capable of, causing intoxication, hallucination, excitement, or dulling of the brain or nervous system; or (b) about which the student engaged in behavior that would lead a reasonable person to believe that the student intended to cause intoxication, hallucination, excitement, or dulling of the brain or nervous system. The prohibition in this section does not apply to a student’s use of asthma or other legally prescribed inhalant medications.
- f. Any substance inhaled, injected, smoked, consumed, or otherwise ingested or absorbed with the intention of causing a physiological or psychological change in the body, including without limitation, pure caffeine in tablet or powdered form. **12**
- g. “Look-alike” or counterfeit drugs, including a substance that is not prohibited by this policy, but one: (a) that a student believes to be, or represents to be, an illegal drug, controlled substance, or other substance that is prohibited by this policy; or (b) about which a student engaged in behavior that would lead a reasonable person to believe that the student expressly or impliedly represented to be an illegal drug, controlled substance, or other substance that is prohibited by this policy. **13**

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

10 See policies 7:240, *Conduct Code for Participants in Extracurricular Activities*, and 7:300, *Extracurricular Athletics*.

11 To legally use medical cannabis, an individual must first become a *registered qualifying patient*. The use of cannabis by a *registered qualifying patient* is permitted only in accordance with the Compassionate Use of Medical Cannabis Pilot Program (410 ILCS 130/). There are many situations in which no one, even a *registered qualifying patient*, may possess or use cannabis, including in a school bus or on the grounds of any preschool, or primary or secondary school (410 ILCS 130/30(a)(2)&(3)). See also www2.illinois.gov/gov/mcphp/Pages/default.aspx. Contact the board attorney for advice concerning medical cannabis, including whether a federal or State law requires the district to accommodate a student who is a *registered qualifying patient*. See Americans With Disabilities Act, 42 U.S.C. §12101 *et seq.*; Individuals With Disabilities Education Improvement Act of 2004, 20 U.S.C. §1400 *et seq.*; Rehabilitation Act of 1973, Section 504, 29 U.S.C. §794; 105 ILCS 5/14-1.01 *et seq.*, 5/14-7.02, and 5/14-7.02b; and 23 Ill.Admin.Code Part 226.

12 The Powdered Caffeine Control and Education Act states: “No person may sell, offer for sale, give away, or provide free samples of powdered pure caffeine to any person under age 18 located within the State or to any person under age 18 making the purchase from within the State.” A limited exception to this prohibition exists for “the sale of any powdered pure caffeine product that receives explicit approval as safe and effective for its intended use under the federal Food, Drug, and Cosmetic Act or is lawfully marketed under an over-the-counter monograph issued by the United States Food and Drug Administration.” 410 ILCS 647/20, added by P.A. 99-50.

13 Look-alike and counterfeit substances are defined in 720 ILCS 570/102(g)&(y). This provision is broader because it would apply, for example, if a student represents a powdered vitamin to be pure caffeine – pure caffeine is prohibited on campus even though it is a legal substance. Look-alike drugs should be defined; an unpublished Ill. appellate decision in 2000 found a policy prohibiting possession of look-alikes had vagueness problems.

- h. Drug paraphernalia, including devices that are or can be used to: (a) ingest, inhale, or inject cannabis or controlled substances into the body; and (b) grow, process, store, or conceal cannabis or controlled substances. **14**

Students who are under the influence of any prohibited substance are not permitted to attend school or school functions and are treated as though they had the prohibited substance, as applicable, in their possession.

4. Using, possessing, controlling, or transferring a “weapon” as that term is defined in the Weapons section of this policy, or violating the Weapons section of this policy. **15**
5. Using or possessing an electronic paging device. Using a cellular telephone, video recording device, personal digital assistant (PDA), or other electronic device in any manner that disrupts the educational environment or violates the rights of others, including using the device to take photographs in locker rooms or bathrooms, cheat, or otherwise violate student conduct rules. Prohibited conduct specifically includes, without limitation, creating, sending, sharing, viewing, receiving, or possessing an indecent visual depiction of oneself or another person through the use of a computer, electronic communication device, or cellular phone. Unless otherwise banned under this policy or by the Building Principal, all electronic devices must be kept powered-off and out-of-sight during the regular school day unless: (a) the supervising teacher grants permission; (b) use of the device is provided in a student’s individualized education program (IEP); (c) it is used during the student’s lunch period, or (d) it is needed in an emergency that threatens the safety of students, staff, or other individuals. **16**
6. Using or possessing a laser pointer unless under a staff member’s direct supervision and in the context of instruction.
7. Disobeying rules of student conduct or directives from staff members or school officials. Examples of disobeying staff directives include refusing a District staff member’s request to stop, present school identification, or submit to a search.
8. Engaging in academic dishonesty, including cheating, intentionally plagiarizing, wrongfully giving or receiving help during an academic examination, altering report cards, and wrongfully obtaining test copies or scores.

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14 Drug paraphernalia is defined in 720 ILCS 600/2. Contact the board attorney for advice concerning a student who is a *registered qualifying patient*, as explained in f/n 11.

15 This language is broader than the **Weapons** section of this policy. The **Weapons** section contains the statutorily required punishment for “a student who is determined to have brought” a weapon to school along with the statutory definition of *weapon* (105 ILCS 5/10-22.6). The language in item #4 is broader because it prohibits “using, possessing, controlling, or transferring” a weapon in addition to violating the **Weapons** section. See the footnotes in the **Weapons** section for a discussion of the Firearm Concealed Carry Act’s provisions.

16 105 ILCS 5/10-21.10 prohibits student possession of electronic paging devices, but State law leaves to local boards the discretion whether to prohibit student possession of cellular phones (105 ILCS 5/10-20.28). The misuse of camera phones can seriously invade a student’s privacy. A board wanting a sweeping prohibition may use the following alternative for item #5:

Using or possessing a cellular telephone, electronic signaling device, two-way radio, video recording device, and/or other telecommunication device, unless authorized and approved by the Building Principal.

Operating transmitters designed to jam or block wireless communications violates the federal Communications Act of 1934 (47 U.S.C. §§301, 302a, & 333). Fines are as high as \$10,000 for each violation and/or imprisonment, and the device may also be seized (47 U.S.C. §§501-510).

Making a video recording or live video transmission of another person without their consent in a restroom, locker room, or changing room is a Class 4 felony (720 ILCS 5/26-4). A minor who distributes or disseminates an indecent visual depiction of another minor through the use of a computer or electronic communication device may be subject to adjudication as a minor in need of supervision (705 ILCS 405/3-40).

9. Engaging in hazing or any kind of bullying or aggressive behavior that does physical or psychological harm to a staff person or another student, or urging other students to engage in such conduct. Prohibited conduct specifically includes, without limitation, any use of violence, intimidation, force, noise, coercion, threats, stalking, harassment, sexual harassment, public humiliation, theft or destruction of property, retaliation, hazing, bullying, bullying using a school computer or a school computer network, or other comparable conduct. **17**
10. Engaging in any sexual activity, including without limitation, offensive touching, sexual harassment, indecent exposure (including mooning), and sexual assault. This does not include the non-disruptive: (a) expression of gender or sexual orientation or preference, or (b) display of affection during non-instructional time.
11. Teen dating violence, as described in Board policy 7:185, *Teen Dating Violence Prohibited*. **18**
12. Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person's personal property. **19**
13. Entering school property or a school facility without proper authorization.
14. In the absence of a reasonable belief that an emergency exists, calling emergency responders (such as calling 911); signaling or setting off alarms or signals indicating the presence of an emergency; or indicating the presence of a bomb or explosive device on school grounds, school bus, or at any school activity.
15. Being absent without a recognized excuse; State law and School Board policy regarding truancy control will be used with chronic and habitual truants. **20**

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17 All districts must have a policy on bullying (105 ILCS 5/27-23.7(d)). Policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, contains the statutory definition of bullying.

105 ILCS 5/10-20.14 requires boards, in consultation with their parent-teacher advisory committees and other community-based organizations, to include provisions in their student discipline policy to address aggressive behavior, including bullying. Implementing procedures must include a method for informing parents/guardians when their child or ward engaged in aggressive behavior as well as early intervention procedures based upon available community and district resources. See 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

Suspending students for hazing was upheld in *Gendelman v. Glenbrook North High School and Northfield Township School District 225*, 2003 WL 21209880 (N.D.Ill., 2003). This decision may have been legislatively overturned by P.A. 99-456, amending 105 ILCS 5/10-20.14.

The failure of a school official (including any administrator, teacher, counselor, support staff, or coach) to report hazing is a Class B misdemeanor (720 ILCS 5/12C-50.1).

A person commits a felony hate crime when, by reason of the actual or perceived race, color, creed, religion, ancestry, sexual orientation, disability, or national origin of another person, he or she commits assault or battery (720 ILCS 5/12-7.1). The penalty is heightened when the offense is committed in a school or administrative facility.

720 ILCS 5/26-1 makes transmitting a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

18 All school boards must have a policy on prohibited teen dating violence (105 ILCS 110/3.10). Verify that the board adopted the policy listed and amend its title in this policy, if necessary.

19 720 ILCS 5/26-1(a)(3.5) makes threatening to destroy a school building or school property, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

20 105 ILCS 5/26-2a, 5/26-9, and 5/26-12. See policy 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*, and 7:70, *Attendance and Truancy*.

16. Being involved with any public school fraternity, sorority, or secret society, by: (a) being a member; (b) promising to join; (c) pledging to become a member; or (d) soliciting any other person to join, promise to join, or be pledged to become a member. **21**
17. Being involved in gangs or gang-related activities, including displaying gang symbols or paraphernalia. **22**
18. Violating any criminal law, including but not limited to, assault, battery, arson, theft, gambling, eavesdropping, vandalism, and hazing.
19. Making an explicit threat on an Internet website against a school employee, a student, or any school-related personnel if the Internet website through which the threat was made is a site that was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made, and the threat could be reasonably interpreted as threatening to the safety and security of the threatened individual because of his or her duties or employment status or status as a student inside the school. **23**
20. Operating an unmanned aircraft system (UAS) or drone for any purpose on school grounds or at any school event unless granted permission by the Superintendent or designee. **24**
21. Engaging in any activity, on or off campus, that interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. **25**

For purposes of this policy, the term “possession” includes having control, custody, or care, currently or in the past, of an object or substance, including situations in which the item is: (a) on the student’s person; (b) contained in another item belonging to, or under the control of, the student, such as in the student’s clothing, backpack, or automobile; (c) in a school’s student locker, desk, or other school property; or (d) at any location on school property or at a school-sponsored event. **26**

Efforts, including the use of positive interventions and supports, shall be made to deter students, while at school or a school-related event, from engaging in aggressive behavior that may reasonably produce physical or psychological harm to someone else. The Superintendent or designee shall ensure

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21 State law requires schools to suspend or expel any student who engages in this activity (105 ILCS 5/31-3).

22 See Kelly v. Board of Educ. of McHenry Community High School Dist. 156, 2007 WL 114300 (N.D.Ill., 2007)(upheld student’s expulsion for drawing gang symbols while at school; testimony that the danger posed by gang signs and the presence of gangs at school supported the board’s insistence on strict enforcement of board policy prohibiting gang related behavior and made expulsion a proper remedy).

740 ILCS 147/15 et seq. allows a school district to bring a civil suit against a gang, gang officers, or gang members for losses it suffers due to their criminal activity.

23This statement of misconduct restates 105 ILCS 5/10-22.6(d-5). The following alternative provides a shorter statement but will require the administrator to check the statute before imposing discipline based on it:

Making an explicit threat on an Internet website against a school, employee, or any school-related personnel under circumstances described in Section 10-22.6(d-5) of the School Code.

24 For more information regarding unmanned aircraft systems see: www.faa.gov/uas/.

25 A catchall provision, e.g., this one, gives staff members authority to respond to unforeseen situations.

If the board adopts a mandatory uniform policy (see 7:165, *School Uniforms*), add the following item to the list as number 17: “Failing to comply with the mandatory uniform policy, but only after repeated attempts to secure compliance, such as conferences with parents/guardians, have been unsuccessful.”

26 *Possession* should be defined to avoid vagueness problems.

that the parent/guardian of a student who engages in aggressive behavior is notified of the incident. ²⁷ The failure to provide such notification does not limit the Board's authority to impose discipline, including suspension or expulsion, for such behavior.

No disciplinary action shall be taken against any student that is based totally or in part on the refusal of the student's parent/guardian to administer or consent to the administration of psychotropic or psychostimulant medication to the student. ²⁸

Disciplinary Measures ²⁹

School officials shall limit the number and duration of expulsions and out-of-school suspensions to the greatest extent practicable, and, where practicable and reasonable, shall consider forms of non-exclusionary discipline before using out-of-school suspensions or expulsions. ³⁰ School personnel shall not advise or encourage students to drop out voluntarily due to behavioral or academic difficulties. ³¹ Potential disciplinary measures include, without limitation, any of the following: ³²

1. Notifying parent(s)/guardian(s).
2. Disciplinary conference.
3. Withholding of privileges.
4. Temporary removal from the classroom.

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²⁷ See f/n 17.

²⁸ Mandated by 105 ILCS 5/10-20.36.

²⁹ **IMPORTANT:** The practice of suspending or expelling a student based on the number of accumulated disciplinary infractions may be illegal under 105 ILCS 5/10-22.6, ~~amended by P.A. 99-456, eff. 9-15-2016~~. This includes a system of assigning points to specific infractions and then tallying the points a student receives over a period of time to determine a disciplinary exclusion from school. Contact the board attorney before using such a system.

Before P.A. 99-456 (~~eff. 9-15-2016~~) amended 105 ILCS 5/10-22.6, courts used the following factors to determine if a board abused its discretion when it expelled a student: (1) the egregiousness of the student's conduct, (2) the record of the student's past conduct, (3) the likelihood that such conduct will affect the delivery of educational services to other students, (4) the severity of the punishment, and (5) the intent of the child. Robinson v. Oak Park, 571 N.E.2d 931 (Ill.App.1, 1991); Wilson ex rel. Geiger v. Hinsdale Elementary District, 810 NE2d 637 (Ill.App. 2, 2004). Whether courts will continue to use these factors is yet to be determined. The enactment of P.A. 99-456 calls into question the validity of relying on past misconduct in suspension or expulsion decisions.

Aside from procedural due process protection, students have a constitutional substantive due process right. This right protects them from an abuse of government power which "shocks the conscience." While the scope of substantive due process is very limited, it is available to students who believe they were subject to arbitrary and excessive discipline. Generally, however, school officials need not fear being found guilty of a substantive due process violation. Federal courts are loath to second-guess school officials. See Tun v. Whitticker, 398 F.3d 899 (7th Cir., 2005)(expulsion did not amount to a substantive due process violation because it fell short of the required *shocks the conscience* standard).

³⁰ 105 ILCS 5/10-22.6(b-5), ~~amended by P.A. 99-456, eff. 9-15-2016~~. According to subsection c-5, "[s]chool districts must make reasonable efforts to provide ongoing professional development to teachers, administrators, school board members, school resource officers, and staff on the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, and developmentally appropriate disciplinary methods that promote positive and healthy school climates." 105 ILCS 5/10-22.6(c-5), ~~added by P.A. 99-456, eff. 9-15-2016~~.

³¹ 105 ILCS 5/10-22.6(h), ~~added by P.A. 99-456, eff. 9-15-2016~~.

³² Most school attorneys advise against using a grade reduction as a disciplinary measure. A decision upholding such a policy is Knigh t v. Board of Education, 348 N.E.2d 299 (Ill.App. 4, 1976). A decision striking one is Smith v. School City of Hobart, 811 F.Supp. 391 (N.D.Ind., 1993)(grade reduction policy requiring 9-week grades to be reduced 4% for each day of a suspension was found unconstitutional).

5. Return of property or restitution for lost, stolen, or damaged property. **33**
6. In-school suspension. The Building Principal or designee shall ensure that the student is properly supervised. **34**
7. After-school study or Saturday study **35** provided the student's parent/guardian has been notified. If transportation arrangements cannot be agreed upon, an alternative disciplinary measure must be used. The student must be supervised by the detaining teacher or the Building Principal or designee.
8. Community service with local public and nonprofit agencies that enhances community efforts to meet human, educational, environmental, or public safety needs. **36** The District will not provide transportation. School administration shall use this option only as an alternative to another disciplinary measure, giving the student and/or parent/guardian the choice.
9. Seizure of contraband; confiscation and temporary retention of personal property that was used to violate this policy or school disciplinary rules. **37**
10. Suspension of bus riding privileges in accordance with Board policy 7:220, *Bus Conduct*. **38**
11. Out-of-school suspension from school and all school activities in accordance with Board policy 7:200, *Suspension Procedures*. **39** A student who has been suspended may also be restricted from being on school grounds and at school activities. **40**
12. Expulsion from school and all school activities for a definite time period not to exceed 2 calendar years in accordance with Board policy 7:210, *Expulsion Procedures*. **41** A student who has been expelled may also be restricted from being on school grounds and at school activities. **42**

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33 While restitution is permitted, issuing a fine or fee as a disciplinary consequence is not permitted (105 ILCS 5/10-22.6(i), ~~added by P.A. 99-456, eff. 9-15-2016~~). The Parental Responsibility Law (740 ILCS 115/5) is discussed in a footnote in sample policy 7:170, *Vandalism*.

34 State law does not address in-school suspensions. Providing an educational program during in-school suspensions will help distinguish them from exclusionary suspensions.

35 Teachers may not be required to teach on Saturdays (105 ILCS 5/24-2).

36 See *Herndon v. Chapel Hill-Carrboro City Bd.*, 89 F.3d 174 (~~C.A. 4th Cir.~~, 1996)(upheld policy requiring students to complete community service in order to graduate).

37 Consult the board attorney for advice concerning confiscated devices. There is no binding Ill. court decision regarding school personnel seizing and retaining a student's property. The Supreme Court of Arkansas held that a teacher and principal did not violate a student's state or federal rights when they confiscated and retained a student's cell phone for 2 weeks for violating school rules on cell phones. *Koch v. Adams*, 361 S.W.3d 817 (Ark. 2010).

38 105 ILCS 5/10-22.6(b) & (b-30), amended by P.A. 99-456, eff. 9-15-2016.

39 A suspension may be imposed in only limited situations that vary according to the suspension's length (105 ILCS 5/10-22.6(b-15), ~~amended by P.A. 99-456, eff. 9-15-2016~~). This is explained in sample board policy 7:200, *Suspension Procedures*, and its footnotes.

40 This sentence is optional. A board may make this mandatory by replacing "may also be" with "shall also be."

41 An expulsion may be imposed in only limited situations (105 ILCS 5/10-22.6(b-20), ~~amended by P.A. 99-456, eff. 9-15-2016~~). This is explained in sample board policy 7:210, *Expulsion Procedures*, and its footnotes.

105 ILCS 5/10-22.6(d) permits expulsion for a definite period of time not to exceed ~~2~~-two calendar years. School officials must document whether other interventions were attempted or whether it was determined that there were no other appropriate and available interventions.

42 This sentence is optional. A board may make this mandatory by replacing "may also be" with "shall also be."

13. Transfer to an alternative program if the student is expelled or otherwise qualifies for the transfer under State law. The transfer shall be in the manner provided in Article 13A or 13B of the School Code. **43**
14. Notifying juvenile authorities or other law enforcement whenever the conduct involves criminal activity, including but not limited to, illegal drugs (controlled substances), “look-alikes,” alcohol, or weapons or in other circumstances as authorized by the reciprocal reporting agreement between the District and local law enforcement agencies.

The above list of disciplinary measures is a range of options that will not always be applicable in every case. In some circumstances, it may not be possible to avoid suspending or expelling a student because behavioral interventions, other than a suspension and expulsion, will not be appropriate and available, and the only reasonable and practical way to resolve the threat and/or address the disruption is a suspension or expulsion.

Corporal punishment is prohibited. Corporal punishment is defined as slapping, paddling, or prolonged maintenance of students in physically painful positions, or intentional infliction of bodily harm. Corporal punishment does not include reasonable force as needed to maintain safety for students, staff, or other persons, or for the purpose of self-defense or defense of property. **44 45**

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43 105 ILCS 5/10-22.6(a)&(b). Subsection 10-22.6(b) uses the phrase “is suspended in excess of 20 school days” even though a 20-consecutive day suspension should be treated as an expulsion. *Goss v. Lopez*, 95 S.Ct. 729 (1975). An alternative program is probably available to a student who is suspended for 11 to 20 consecutive days because that student is technically expelled and, as such, qualifies under subsection (a) of Section 10-22.6. Contact the board attorney if the district wants to interpret the statute as referring to *cumulative* school days so that it can transfer a student to an alternative program upon his or her suspension in excess of 20 *cumulative* school days.

Contact the board attorney regarding the necessary due process procedures before imposing a disciplinary transfer to an alternative school. The court in *Leak v. Rich Twp High School Dist.*, 227 (2015 IL App. 143202)([Ill.App. 1st Dist. 9-9-2015](#)), held that placement in an alternative school is tantamount to an expulsion. Thus, according to dicta in this decision, districts must follow expulsion procedures before a student is transferred to an alternative school. Schools may still reach agreements with parents/guardians to transfer students to such schools without completing the expulsion procedures.

The alternative program may not deny the transfer on the basis of the suspension or expulsion, except in cases in which the transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

44 This paragraph paraphrases 105 ILCS 5/24-24.

45 Staff members may *not* use isolated time out or physical restraint unless their use is authorized by policy and administrative procedure (105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §1.280(c) and 1.285). See 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*. **The sample policy prohibits the use of isolated time out and physical restraint by not specifically permitting their use.** State statute and ISBE rules contain complex restrictions on the use of isolated time out and physical restraints (105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §1.280(c) and 1.285). According to the ISBE rule, isolated time out and physical restraints are prohibited unless a board authorizes their use in a policy containing the numerous components identified in the rule. **A board that wants to authorize the use of isolated time out and physical restraints should insert the paragraph below.** To comply with ISBE’s rule, a board must also incorporate by reference the procedure developed by the superintendent, i.e., 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*. By doing this, the procedure becomes part of the policy.

School staff members shall not use isolated time out and physical restraints other than as permitted in Section 10-20.33 of the School Code, State Board of Education rules, and procedures developed by the Superintendent.

Neither isolated time out nor physical restraints shall be used to discipline or punish a student.

If the above option is used, add the following before the Legal References on the final page: “Incorporated by Reference: 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*.”

Weapons 46

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

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

The expulsion requirement under either paragraph ~~1-one~~ or ~~2-two~~ above may be modified by the Superintendent, and the Superintendent’s determination may be modified by the Board on a case-by-case basis. The Superintendent or designee may grant an exception to this policy, upon the prior request of an adult supervisor, for students in theatre, cooking, ROTC, martial arts, and similar programs, whether or not school-sponsored, provided the item is not equipped, nor intended, to do bodily harm. 47

This policy’s prohibitions concerning weapons apply regardless of whether: (1) a student is licensed to carry a concealed firearm, or (2) the Board permits visitors, who are licensed to carry a concealed firearm, to store a firearm in a locked vehicle in a school parking area. 48

Re-Engagement of Returning Students 49

The Superintendent or designee shall maintain a process to facilitate the re-engagement of students who are returning from an out-of-school suspension, expulsion, or an alternative school setting. The goal of re-engagement shall be to support the student’s ability to be successful in school following a

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46 This section paraphrases 105 ILCS 5/10-22.6(d) and contains the statutorily required punishment for bringing a weapon to school along with the statutory definition of *weapon*. When preparing for a due process hearing, a principal needs to use the applicable State and federal law definitions of *firearm* – not just the School Code.

While subsection 105 ILCS 5/10-22.6(b-10), added by P.A. 99-456, explicitly forbids zero tolerance policies, it provides an exception for those zero tolerance policies established by State or federal law, which includes weapons in school. Section 10-22.6(d) provides that a student who brings a weapon to school, as defined in the section, “shall be expelled for a period not less than one year,” unless modified by the superintendent or board. The federal Gun-Free Schools Act (20 U.S.C. §7151 et seq.) provides for at least a one year expulsion for students who bring firearms to school. Although subsection 10-22.6(d) allows the superintendent and the board to modify that consequence, the superintendent/board may decline to exercise that discretion and impose the maximum penalty authorized by law. Analyzing the student’s circumstances on a case-by-case basis may avoid a judicial finding that an expulsion is too severe. See Washington v. Smith, 618 N.E.2d 561 (Ill.App.1, 1993).

Item #4 in the **Prohibited Student Conduct** section is broader because it prohibits “using, possessing, controlling, or transferring” a weapon in addition to violating the *Weapons* section.

47 Optional.

48 The Firearm Concealed Carry Act permits a properly licensed individual to carry a concealed firearm within a vehicle into a school parking area and store it a locked vehicle out of plain view (430 ILCS 66/65(b)). The Federal Gun-Free Schools Act has a similar provision (20 U.S.C. §7151(g)). The School Code, however, contains no similar exception to the ban on firearms at schools. Contact the board attorney before permitting students to store their firearms in their vehicle’s trunk while parked at school.

49 Required by 105 ILCS 5/10-22.6(b-25); ~~amended by P.A. 99-456, eff. 9-15-2016~~. See 7:190-AP8, *Student Re-Engagement Guidelines*.

period of exclusionary discipline and shall include the opportunity for students who have been suspended to complete or make up work for equivalent academic credit. ⁵⁰

Required Notices

A school staff member shall immediately notify the office of the Building Principal in the event that he or she: (1) observes any person in possession of a firearm on or around school grounds; however, such action may be delayed if immediate notice would endanger students under his or her supervision, (2) observes or has reason to suspect that any person on school grounds is or was involved in a drug-related incident, or (3) observes a battery committed against any staff member. ⁵¹ Upon receiving such a report, the Building Principal or designee shall immediately notify the local law enforcement agency, State Police, and any involved student's parent/guardian. ⁵² "School grounds" includes modes of transportation to school activities and any public way within 1000 feet of the school, as well as school property itself.

Delegation of Authority

Each teacher, and any other school personnel when students are under his or her charge, is authorized to impose any disciplinary measure, other than suspension, expulsion, corporal punishment, or in-school suspension, that is appropriate and in accordance with the policies and rules on student discipline. Teachers, other certificated [licensed] educational employees, and other persons providing a related service for or with respect to a student, may use reasonable force as needed to maintain safety for other students, school personnel, or other persons, or for the purpose of self-defense or defense of property. Teachers may temporarily remove students from a classroom for disruptive behavior. ⁵³

The Superintendent, Building Principal, Assistant Building Principal, or Dean of Students is authorized to impose the same disciplinary measures as teachers and may suspend students guilty of gross disobedience or misconduct from school (including all school functions) and from riding the

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⁵⁰ A goal for re-engagement is optional. Schools must permit students who were suspended to make-up work for equivalent academic credit (105 ILCS 5/10-22.6(b-30)-~~amended by P.A. 99-456, eff. 9-15-2016~~).

⁵¹ 105 ILCS 5/10-27.1A, 5/10-27.1B, and 5/10-21.7. *School grounds* includes the real property comprising any school, any conveyance used to transport students to school or a school-related activity, and any public way within 1,000 feet of any school ground. To satisfy the reporting requirement, ISBE created the School Incident Reporting System (SIRS), a web-based application on IWAS for schools to report incidents electronically. Reporting on SIRS does not satisfy the requirement to report incidents to local law enforcement authorities.

⁵² *Id.* State law imposes this duty to report firearm possession only on school officials; this duty may be also imposed on volunteers and community members. Only staff members, however, are vulnerable to committing a petty offense for their failure to report, and only staff members are protected from civil or criminal liability that might arise as a result of making a report (although the liability potential for anyone making a report is remote).

The building principal must notify the student's parents/guardians only when the alleged offense is firearm possession. The policy expands this notification duty; a board disinclined to do this should substitute the following sentence:

Upon receiving such a report, the Building Principal or designee shall immediately notify the applicable local law enforcement agency, State Police, and, if a student is reportedly in possession of a firearm, also the student's parents/guardians.

⁵³ 105 ILCS 5/24-24 requires: (1) teachers and other certificated [licensed] employees to maintain discipline, and (2) the district to have a policy on discipline that provides that:

[A] teacher, other certificated employee, and any other person, whether or not a certificated employee, providing a related service for or with respect to a student may use reasonable force as needed to maintain safety for the other students, school personnel or persons or for the purpose of self defense or the defense of property, shall provide that a teacher may remove a student from the classroom for disruptive behavior, and shall include provisions which provide due process to students. The policy shall not include slapping, paddling or prolonged maintenance of students in physically painful positions nor shall it include the intentional infliction of bodily harm.

See also 23 Ill.Admin.Code §1.280.

school bus, up to ~~10-ten~~ consecutive school days, provided the appropriate procedures are followed. ⁵⁴ The Board may suspend a student from riding the bus in excess of ~~10-ten~~ school days for safety reasons. ⁵⁵

Student Handbook

The Superintendent, with input from the parent-teacher advisory committee, ⁵⁶ shall prepare disciplinary rules implementing the District's disciplinary policies. These disciplinary rules shall be presented annually to the Board for its review and approval.

A student handbook, including the District disciplinary policies and rules, shall be distributed to the students' parents/guardians within 15 days of the beginning of the school year or a student's enrollment.

LEGAL REF.: Gun-Free Schools Act, 20 U.S.C. §7151 *et seq.*
Pro-Children Act of 1994, 20 U.S.C. §6081.
410 ILCS 130/, Compassionate Use of Medical Cannabis Pilot Program.
410 ILCS 647/, Powdered Caffeine Control and Education Act.
430 ILCS 66/, Firearm Concealed Carry Act.
105 ILCS 5/10-20.5b, 5/10-20.14, 5/10-20.28, 5/10-20.36, 5/10-21.7, 5/10-21.10,
5/10-22.6, 5/10-27.1A, 5/10-27.1B, 5/24-24, 5/26-12, 5/27-23.7, 5/31-3, and
110/3.10.
23 Ill.Admin.Code §1.280.

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

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

⁵⁴ Required by 105 ILCS 5/10-22.6(b).

⁵⁵ *Id.*

⁵⁶ The board must establish and maintain a parent-teacher advisory committee to develop guidelines on student discipline. See policy 2:150, *Committees*. This policy's dissemination requirements are from 105 ILCS 5/10-20.14.

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 Illinois Principals Association maintains a handbook service that coordinates with **PRESS** material. It is called *Online Model Student Handbook (MSH)*, and is described at www.ilprincipals.org/resources/model-student-handbook.

Comment [KAS1]: The policy, Legal References, and footnotes are updated to address 105 ILCS 5/10-20.58, added by P.A. 99-781 (student support services provided by the district may include a liaison to facilitate the enrollment and transfer of records of foster care students) and more.

Students

Student Support Services 1

The following student support services may be provided by the School District:²

1. Health services supervised by a qualified nurse.³ The Superintendent or designee may implement procedures to further a healthy school environment and prevent or reduce the spread of disease.
2. Educational and psychological testing services and the services of a psychologist as needed. In all cases, written permission to administer a psychological examination must be obtained from a student's parent(s)/guardian(s). The results will be given to the parent(s)/guardian(s), with interpretation, as well as to the appropriate professional staff.
3. The services of a social worker. A student's parent(s)/guardian(s) must consent to regular or continuing services from a social worker.
4. Guidance and counseling services.
- 4-5. A liaison to facilitate the enrollment and transfer of records of students in the legal custody of the Illinois Department of Children and Family Services when enrolling in or changing schools.⁴

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 All districts are required to conduct a comprehensive needs assessment to determine the scope of student personnel services needs (23 Ill.Admin.Code §1.420(q)).

~~105 ILCS 5/2-3.142P.A. 95-558~~ created the Ensuring Success in School Task Force. This task force developed recommendations for policies, procedures, and protocols for school boards to adopt to address the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence. The intent of the recommendations is to ensure these student populations' ability to: (1) stay in school, (2) stay safe at school and (3) successfully complete their education. A copy of this report is available at: www.povertylaw.org/advocacy/women-and-family/essa-task-force/essa-task-force-report[http://povertylaw.org/sites/default/files/webfiles/final-essa-task-force-report-with-appendix%20\(1\).pdf](http://povertylaw.org/sites/default/files/webfiles/final-essa-task-force-report-with-appendix%20(1).pdf). School boards and superintendents may want to create their own study groups to discuss implementation of the task force's recommendations for policies, procedures and protocols.

³ ~~Any nurse first employed on or after 7-1-76, whose duties require teaching or the exercise of instructional judgment or educational evaluation of students, must be certified. School districts may employ noncertificated/non-professional educator-licensed registered professional nurses to perform professional nursing services (105 ILCS 5/10-22.23; 23 Ill.Admin.Code §1.760(c)). A registered professional nurse means any nurse who is licensed to practice professional nursing in Illinois under the Nurse Practice Act (225 ILCS 65/) and whose license is active and in good standing with the Ill. Dept. of Financial and Professional Regulation (23 Ill.Admin.Code §1.760(b)).~~

~~A school nurse means any registered professional nurse who also holds a professional educator license endorsed for school support services in school nursing, or any registered professional nurse who does not hold the professional educator license but was employed in the school district of current employment before 7-1-76 (23 Ill.Admin.Code §1.760(c)).~~

~~105 ILCS 5/10-22.23 provides that any nurse first employed on or after 7-1-76, whose duties require teaching or the exercise of instructional judgment or educational evaluation of students, must be certificated/licensed under Section 21-25 (105 ILCS 5/21-25). However, that certification/licensure Section 5/21-25 of the School Code was repealed by P.A. 98-413, eff. 8-16-13. A non-certified registered professional nurse may perform nursing services (105 ILCS 5/10-22.23 and 5/21-25; 23 Ill.Admin.Code §1.760).~~

~~A school nurse may be an educator licensed under a school support personnel endorsement (105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §25.245). An individual who fails to meet one or more requirements for this endorsement may seek an educator license with stipulations endorsed for provisional educator (105 ILCS 5/21B-20; 23 Ill.Admin.Code §25.245).~~

The Superintendent or designee shall develop protocols for responding to students with social, emotional, or mental health problems that impact learning ability.⁵ The District, however, assumes no liability for preventing, identifying, or treating such problems.

This policy shall be implemented in a manner consistent with State and federal laws, including the Individuals with Disabilities Education Act, 42 U.S.C. §12101 et seq.

LEGAL REF.: Children’s Mental Health Act of 2003, 405 ILCS 49/
Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/
[105 ILCS 5/10-20.58.](#)

CROSS REF.: 6:65 (Student Social and Emotional Development), 6:270 (Guidance and Counseling Program), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:280 (Communicable and Chronic Infectious Diseases), 7:340 (Student Records)

⁴ [Optional. 105 ILCS 5/10-20.58, added by P.A. 99-781 allows a liaison. Be sure this policy is consistent with policy 7:50, School Admissions and Student Transfers To and From Non-District Schools. See f/n 13 in 7:50, School Admissions and Student Transfers To and From Non-District Schools for liaison responsibilities and requirements.](#)

⁵ Required by the Children’s Mental Health Act of 2003, 405 ILCS 49/[15.](#)

RENAMED

August 2015 October 2016

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Students

Exemption from Physical Activity Education ¹

In order to be excused from participation in physical education, a student must present an appropriate excuse from his or her parent/guardian or from a person licensed under the Medical Practice Act.² The excuse may be based on medical or religious prohibitions. An excuse because of medical reasons must include a signed statement from a person licensed under the Medical Practice Act that corroborates the medical reason for the request. An excuse based on religious reasons must include a signed statement from a member of the clergy that corroborates the religious reason for the request.³

Special activities in physical education will be provided for a student whose physical or emotional condition, as determined by a person licensed under the Medical Practice Act, prevents his or her participation in the physical education course.⁴

State law prohibits the Board a school board from honoring parental excuses based upon a student's participation in athletic training, activities, or competitions conducted outside the auspices of the School District.⁵

A student who is eligible for special education may be excused from physical education courses in either of the following situations: ⁶

1. He or she (a) is in grades 3-12, (b) his or her IEP requires that special education support and services be provided during physical education time, and (c) the parent/guardian agrees or the IEP team makes the determination; or
2. He or she (a) has an IEP, (b) is participating in an adaptive athletic program outside of the school setting, and (c) the parent/guardian documents the student's participation as required by the Superintendent or designee.

A student requiring adapted physical education must receive that service in accordance with his or her Individualized Educational Program/Plan (IEP).⁷

Comment [KAS1]: RENAMED. The policy is RENAMED for accuracy in response to 23 Ill.Admin.Code §1.425(e)(3) and 23 Ill.Admin.Code §1.425, added at 40 Ill. Reg. 2990. Other updates are made throughout.

Comment [KAS2]: Relocated. Footnote 4 used to be footnote 7 in the prior version of the policy.

Comment [KAS3]: This is the deleted, duplicative text from policy 6:310.

Comment [KAS4]: This is the deleted, duplicative text from policy 6:310.

Comment [KAS5]: Paragraph is not new. It was relocated. A footnote provides the citation.

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

¹ An ISBE rule requires boards to have a policy defining the types of parental excuses that will be accepted in order for a student to be exempted from P.E. (23 Ill.Admin.Code §~~1.420(p)~~-1.425(e) (added at 40 Ill. Reg. 2990)). State or federal law controls this policy's content.

For elementary districts, delete ~~6:310, High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students~~ from the cross references of this policy.

² Medical Practice Act is found in 225 ILCS 60/.

³ Required by 23 Ill.Admin.Code §1.425(e)(3). School boards must identify any evidence/support they will require for excuses they will deem appropriate. Before the board adopts this policy, it should have a conversation with the superintendent to discuss and review and/or amend the sample reasons for excusal offered in this policy. Topics for discussion include determining whether (a) the sample reasons are sufficient, (b) more reasons are needed, and/or (c) the sample reasons should be amended. These conversations should be based upon the community's needs.

⁴ Required by 105 ILCS 5/27-6 and 23 Ill.Admin.Code §~~1.420(p)~~-1.425(d).

⁵ 105 ILCS 5/27-6(b); 23 Ill.Admin.Code §~~1.420(p)~~-1.425(e)(2). See policy 6:310, High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students for a list of categories of students in grades 9-12 who may be excused from P.E. due to participation in school district athletic training, activities, or competitions.

⁶ 105 ILCS 5/27-6(b).

⁷ 105 ILCS 5/27-6(b).

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A student in grades 9-12, unless otherwise stated, may submit a written request to the Building Principal to be excused from physical education courses for the reasons stated in 6:310, High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students.

The Superintendent or designee shall maintain records showing that the criteria set forth in this policy were applied to the student's individual circumstances, as appropriate. 8

LEGAL REF.: 105 ILCS 5/27-6.
225 ILCS 60/, Medical Practice Act.
23 Ill.Admin.Code §1.420(p) and §1.425(d), (e), (f).

CROSS REF.: 6:60 (Curriculum Content), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students)

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.
8 23 Ill.Admin.Code §1.425(f). Districts must maintain records showing that the criteria set forth in 105 ILCS 5/27-6 was applied to the student's individual circumstances.

Students

Administering Medicines to Students ¹

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

No School District employee shall administer to any student, or supervise a student's self-administration of, any prescription or non-prescription medication until a completed and signed "School Medication Authorization Form" is submitted by the student's parent/guardian. No student shall possess or consume any prescription or non-prescription medication on school grounds or at a school-related function other than as provided for in this policy and its implementing procedures.

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

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

Self-Administration of Medication ³

A student may possess an epinephrine auto-injector, e.g., (EpiPen®) and/or asthma medication prescribed for use at the student's discretion, provided the student's parent/guardian has completed and signed a *School Medication Authorization Form*. The School District shall incur no liability, except for willful and wanton conduct, as a result of any injury arising from a student's self-administration of medication or epinephrine auto-injector or the storage of any medication by school personnel.⁴ A student's parent/guardian must indemnify and hold harmless the School District and its employees and agents, against any claims, except a claim based on willful and wanton conduct,

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¹ All districts must have a policy for administering medication (105 ILCS 5/10-20.14b). State law prohibits school boards from requiring that teachers and other non-administrative school employees administer medication to students; exceptions are certificated school nurses and non-certificated registered professional nurses (105 ILCS 5/10-22.21b).

² Each district must inform students (e.g., through homeroom discussion or loudspeaker announcement) about, and distribute to their parents/guardians, the district's policy, guidelines, and forms on administering medicines within 15 days after the beginning of each school year, or within 15 days after starting classes for a student who transfers into the district (105 ILCS 5/10-20.14b). A comprehensive Student Handbook can provide notice to parents and students of the school's rules, extracurricular and athletic participation requirements, and other important information. The Handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board.

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

⁴ 105 ILCS 5/22-30(c) requires this information to be in a notification to parents.

Comment [KAS1]: The policy is unchanged with one minor nonsubstantive update. A footnote is updated for P.A. 99-711, eff. 1-1-17 (undesignated epinephrine auto-injectors; secure location accessible before, during, and after school). **Consult the board attorney about this procedure and In re: Estate of Stewart v. Oswego Comm. Unit. Sch. Dist. No. 308, --- N.E. 3d --- (Ill. App. 2, 2016).**

arising out of a student's self-administration of an epinephrine auto-injector and/or medication, or the storage of any medication by school personnel.⁵

School District Supply of Undesignated Epinephrine Auto-Injectors ⁶

The Superintendent or designee shall implement Section 22-30(f) of the School Code and maintain a supply of undesignated epinephrine auto-injectors in the name of the District and provide or administer them as necessary according to State law. *Undesignated epinephrine auto-injector* means an epinephrine auto-injector prescribed in the name of the District or one of its schools. A school nurse or trained personnel, as defined in State law,⁷ may administer an undesignated epinephrine auto-injector to a person when they, in good faith, believe a person is having an anaphylactic reaction. Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law.⁸

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

⁵ 105 ILCS 5/22-30(c) requires parents/guardians to sign a statement: (1) acknowledging the statement from f/n 4 above, and (2) that they must indemnify and hold harmless the school district and its employees and agents against any claims, except a claim based on willful and wanton conduct, arising out of the self-administration of medication by the student or the storage of the medication by school personnel. There are several methods to obtain a parent/guardian's signature for this purpose, e.g., receipt of handbook signature, or see 7:270 E, *School Medication Authorization Form*. Discuss with the board attorney the method that works best for the district.

⁶ Optional. A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30, amended by P.A. 99-711, eff. 1-1-17. The law permits a district to maintain a supply of undesignated epinephrine auto-injectors in any secure location that is accessible before, during, and after school where an allergic person is most at risk, including, but not limited to, classrooms and lunchrooms, where an allergic person is at risk and use them when necessary. The P.A. 99-711 amendment requiring accessibility before, during, and after school does not address the logistical issues that classrooms are typically locked before and after school. Consult the board attorney about the implementation issues with this new phrase in the law.

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated epinephrine auto-injectors and implement a plan for their use, and then not doing it may be fraught with legal liabilities. Also fraught with legal liabilities is if the district is providing them, not having them accessible before, during, and after school where an allergic person is most at risk as required by P.A. 99-711, eff. 1-1-17. See In re: Estate of Stewart v. Oswego Comm. Unit. Sch. Dist. No. 308, --- N.E. 3d --- (Ill. App. 2, 2016)(denying tort immunity to district, finding its response to a student's asthma attack was willful and wanton (which district disputed as a possible heart attack)).

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

⁷ State law defines *trained personnel* as any school employee or volunteer personnel authorized in Sections 10-22.34, 10-22.34a, and 10-22.34b of this Code who has completed training to recognize and respond to anaphylaxis (105 ILCS 5/22-30(a)). ISBE must develop the training curriculum for trained personnel, and it may be conducted online or in person (Id. at (h) and 23 Ill.Admin.Code §1.540(e)(3)). P.A. 99-480 did not amend the trained personnel to include recognition and response to an opioid overdose. However, 105 ILCS 5/22-30(h-5), amended by P.A. 99-480 and 23 Ill.Admin.Code §1.540(e)(4) list the training curriculum requirements to recognize and respond to an opioid overdose.

⁸ 23 Ill.Admin.Code §1.540(e)(7)&(8).

School District Supply of Undesignated Opioid Antagonists⁹

The Superintendent or designee shall implement Section 22-30(f) of the School Code and maintain a supply of undesignated opioid antagonists in the name of the District and provide or administer them as necessary according to State law. *Opioid antagonist* means a drug that binds to opioid receptors and blocks or inhibits the effect of opioids acting on those receptors, including, but not limited to, naloxone hydrochloride or any other similarly acting drug approved by the U.S. Food and Drug Administration. *Undesignated opioid antagonist* is not defined by the School Code; for purposes of this policy it means an opioid antagonist prescribed in the name of the District or one of its schools. A school nurse or trained personnel,¹⁰ as defined in State law, may administer an undesignated opioid antagonist to a person when they, in good faith, believe a person is having an opioid overdose. Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law.¹¹

Void Policy: Disclaimer¹²

The **School District Supply of Undesignated Epinephrine Auto-Injectors** section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for undesignated epinephrine auto-injectors from a physician or advanced practice nurse licensed to practice medicine in all its branches, or (2) fill the District's prescription for undesignated school epinephrine auto-injectors.¹³

The **School District Supply of Undesignated Opioid Antagonists** section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for opioid antagonists from a health care professional¹⁴ who has been delegated prescriptive authority for opioid antagonists in accordance with Section 5-23 of the Alcoholism and

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

⁹ Optional. If the board chooses to implement an undesignated opioid antagonist program, and the district employs law enforcement, consult the board attorney about whether this subhead becomes required. See Alcoholism and Other Drug Abuse and Dependency Act (20 ILCS 301/).

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

A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30(h-5), amended by P.A. 99-480. The law permits a district to maintain a supply of undesignated opioid antagonists in any secure location where a person is at risk of an opioid overdose and use them when necessary. The consequences of informing the community that the district will obtain a prescription for a supply of opioid antagonists and implement a plan for their use, and then not doing it may be fraught with legal liabilities.

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

¹⁰ See the discussion regarding *trained personnel* in f/n 7, above.

¹¹ See f/n 8, above.

¹² Remove this section if the board does not adopt the undesignated epinephrine auto-injector or the undesignated opioid antagonist sections of the policy. If the board adopts one or the other, delete the appropriate paragraph in this section.

¹³ Discuss with the board attorney whether the board should remove this sentence when the district reaches full implementation of this section.

¹⁴ *Health care professional* means a physician licensed to practice medicine in all its branches, a licensed physician assistant, a licensed advanced practice nurse, or an advanced practice nurse who practices in a hospital or ambulatory surgical treatment center and possesses appropriate clinical privileges in accordance with the Nurse Practice Act (20 ILCS 301/5-23(d)(4), amended by P.A.s 99-173 and 99-480).

Other Drug Abuse and Dependency Act, or (2) fill the District's prescription for undesignated school opioid antagonists.¹⁵

Upon any administration of an undesignated epinephrine auto-injector or an opioid antagonist, the Superintendent or designee(s) must ensure all notifications required by State law and administrative procedures occur.¹⁶

Upon implementation of this policy, the protections from liability and hold harmless provisions as explained in Section 22-30(c) of the School Code apply.

No one, including without limitation parents/guardians of students, should rely on the District for the availability of an epinephrine auto-injector and/or opioid antagonist. This policy does not guarantee the availability of an epinephrine auto-injector and/or opioid antagonist; students and their parents/guardians should consult their own physician regarding such medication(s).

LEGAL REF.: 105 ILCS 5/10-20.14b, 5/10-22.21b, and 5/22-30.
23 Ill.Admin.Code §1.540.

CROSS REF.: 7:285 (Food Allergy Management)

ADMIN. PROC.: 7:270-API (Dispensing Medication), 7:270-AP2 (Checklist for District Supply of Undesignated Epinephrine Auto-Injectors and/or Opioid Antagonists), 7:270-E (School Medication Authorization Form)

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

¹⁵ See f/n 13, above.

¹⁶ 105 ILCS 5/22-30, amended by P.A. 99-480 details specific required notifications, which are listed in 7:270-AP2, *Checklist for District Supply of Undesignated Epinephrine Auto-Injectors and/or Opioid Antagonists*.

Comment [KAS1]: The policy is updated to fully incorporate the Youth Sports Concussion Safety Act, P.A. 99-486 and incorporate 105 ILCS 23.120, added by P.A. 99-831 (require all IHSA member districts that have certified athletic trainers). Web links are updated.

Students

Student Athlete Concussions and Head Injuries 1

The Superintendent or designee shall develop and implement a program to manage concussions and head injuries suffered by students. The program shall:

1. ~~Prepare for the full implementation of~~ Fully implement the Youth Sports Concussion Safety Act, that provides, without limitation, each of the following: ²
 - a. The Board must appoint or approve members of a Concussion Oversight Team for the District. ³

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

¹ Three Illinois statutes in the School Code have addressed student concussions:

- (1) The Youth Sports Concussion Safety Act, 105 ILCS 5/22-80, added by P.A. 99-245; **trailer legislation (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.** The Act contains concussion safety directives for school boards and certain identified staff members. A school district must implement Sec. 22-80 if it offers interscholastic athletic activities or interscholastic athletics under the direction of a coach (volunteer or school employee), athletic director, or band leader. A school district may need to implement its return-to-learn protocol for a student's return to the classroom after he or she is believed to have experienced a concussion, "whether or not the concussion took place while the student was participating in an interscholastic activity." 105 ILCS 5/22-80(d). For a comprehensive discussion of this Act, see the IASB publication [Checklist for Youth Sports Concussion Safety Act](#), at iasb.com/law/. Helpful guidance for implementing this law is available from the Lurie Children's Hospital's *A Guide for Teachers and School Professionals*.
- ~~(2) 105 ILCS 5/10-20.54 required each school board to adopt a policy regarding student athlete concussions and head injuries that complied with the protocols, policies, and by laws of the Illinois High School Association (IHSA). This section was repealed by P.A. 99-245, but school districts should be guided by it until they fully comply with the Youth Sports Concussion Safety Act, which has a compliance deadline of the beginning of the 2016-2017 school year. Section 10-20.54 applied to elementary school districts even if they had no student athletes. See the Illinois Elementary School Association's concussion protocol at www.iesa.org/activities/concussion.asp.~~
- (2) 105 ILCS 25/1.15, added by P.A. 98-1011, requires: (a) all high school coaching personnel to complete online concussion awareness training, and (b) all student athletes to view the IHSA video about concussions.
- (3) 105 ILCS 25/1.20, added by P.A. 99-831, requires the IHSA to require all member districts that have certified athletic trainers to have those trainers complete and submit a monthly report on student-athletes who have sustained a concussion during: 1) a school-sponsored activity overseen by the athletic trainer; or 2) a school-sponsored event of which the athletic director is made aware.

The Center for Disease Control and Prevention explains that a concussion is a type of traumatic brain injury caused by a bump, blow, or jolt to the head, ~~or by a hit to the body that causes the head and brain to move rapidly back and forth that alters the way the brain normally functions.~~ See www.cdc.gov/headsup/index.html. The CDC website contains excellent resources for the recognition, response, and prevention of concussions, including the opportunity to order or download free educational materials on concussions that can be distributed to parents, students, and coaches.

² 105 ILCS 5/22-80, added by P.A. 99-245; trailer legislation (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.

³ 105 ILCS 5/22-80(d), added by P.A. 99-245; trailer legislation (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year. A physician, to the extent possible, must be on the Team. If the school employs an athletic trainer and/or nurse, they must be on the Team to the extent practicable. The Team must include, at a minimum, one person who is responsible for implementing and complying with the return-to-play and return-to-learn protocols adopted by the Team. Other licensed health care professionals may be appointed to serve on the Team.

As this is administrative/staff work rather than governance work, the best practice is to have the Concussion Oversight Team be an *administrative* committee, but consult the board attorney for guidance. If it is a board committee, it must comply with the Open Meetings Act, 5 ILCS 120/1.02. For a discussion of the Open Meetings Act's treatment of committees, see the footnotes in 2:150, *Committees*.

- b. The Concussion Oversight Team shall establish each of the following based on peer-reviewed scientific evidence consistent with guidelines from the Centers for Disease Control and Prevention: ⁴
 - i. A return-to-play protocol governing a student’s return to interscholastic athletics practice or competition following a force of impact believed to have caused a concussion. The Superintendent or designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play protocol. ⁵
 - ii. A return-to-learn protocol governing a student’s return to the classroom following a force of impact believed to have caused a concussion. The Superintendent or designee shall supervise the person responsible for compliance with the return-to-learn protocol. ⁶
- c. Each student and the student’s parent/guardian shall be required to sign a concussion information receipt form each school year before participating in an interscholastic athletic activity. ⁷
- d. A student shall be removed from an interscholastic athletic practice or competition immediately if any of the following individuals believes that the student sustained a

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⁴ 105 ILCS 5/22-80(d), added by P.A. 99-245; trailer legislation (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.

⁵ The Youth Sports Concussion Safety Act contains requirements for a student to return to play following a concussion (~~Id.~~ 105 ILCS 5/22-80(g), added by P.A. 99-245; trailer legislation (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year. The student’s treating physician or an athletic trainer working under a physician’s supervision must evaluate and find that it is safe for the student to return to play. The student’s parent/guardian must sign a consent form that complies with statutory prerequisites. In addition, the student must also complete the requirements in the district’s return-to-play and return-to-learn protocols. Thus, the district through its protocols may add requirements for the student’s return, but may not delete any statutory requirements.

It is an open question whether the return-to-play protocol is limited to when the concussion occurred during an interscholastic athletic activity because the statute does not state “whether or not the concussion took place while the student was participating in an interscholastic athletic activity.” It makes sense, however, to apply the return-to-play protocol whenever a student suffers a concussion before allowing him or her to participate in an interscholastic athletic activity. IHSA’s website contains a form for this, *Post-concussion Consent Form* (RTP/RTL), at: ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx

⁶ 105 ILCS 5/22-80(g), added by P.A. 99-245; trailer legislation (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year. The return-to-learn protocol governs a student’s return to the classroom after a concussion, whether or not the concussion took place while the student was participating in an interscholastic athletic activity. Guidance from Lurie Children’s Hospital explains that recovery from a concussion must be an individualized process because no two concussions are the same. See *Return to Learn after a Concussion: A Guide for Teachers and School Professionals*, Lurie Children’s Hospital. This *Guide* explains that a student’s full recovery depends on both cognitive rest and physical rest. It suggests using a multidisciplinary team to facilitate a student’s return to the classroom and provides examples of accommodations and interventions. It also stresses the importance of identifying a school staff member who will function as a case manager or concussion management leader, such as a school nurse, athletic trainer, or school counselor. IHSA’s website contains a form for this, *Post-concussion Consent Form* (RTP/RTL), at: ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx.

⁷ 105 ILCS 5/22-80(e), added by P.A. 99-245; trailer legislation (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year. *Interscholastic athletic activity* is defined in Section 22-80(a) as “any organized school-sponsored or school-sanctioned activity for students, generally outside of school instructional hours, under the direction of a coach, athletic director, or band leader, including, but not limited to, baseball, basketball, cheerleading, cross country track, fencing, field hockey, football, golf, gymnastics, ice hockey, lacrosse, marching band, rugby, soccer, skating, softball, swimming and diving, tennis, track (indoor and outdoor), ultimate Frisbee, volleyball, water polo, and wrestling. The form must be approved by the Illinois High School Association (IHSA). See ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx, generally and specifically [IHSA Concussion Protocols](#) and [IHSA Sports Medicine Acknowledgement & Consent Form \(Concussion, PES, Asthma Medication\)](#).

- concussion during the practice and/or competition: a coach, a physician, a game official, an athletic trainer, the student's parent/guardian, the student, or any other person deemed appropriate under the return-to-play protocol. **8**
- e. A student who was removed from interscholastic athletic practice or competition shall be allowed to return only after all statutory prerequisites are completed, including without limitation, the return-to-play and return-to-learn protocols developed by the Concussion Oversight Team. An athletic team coach or assistant coach may not authorize a student's return-to-play or return-to-learn. **9**
 - f. The following individuals must complete concussion training as specified in the Youth Sports Concussion Safety Act: all coaches or assistant coaches (whether volunteer or a district employee) of interscholastic athletic activities; nurses who serve on the Concussion Oversight Team; athletic trainers; game officials of interscholastic athletic activities; and physicians who serve on the Concussion Oversight Team. **10**
 - g. The Board shall approve school-specific emergency action plans for interscholastic athletic activities to address the serious injuries and acute medical conditions in which a student's condition may deteriorate rapidly. **11**
2. Comply with the concussion protocols, policies, and by-laws of the Illinois High School Association, including its *Protocol for Implementation of NFHS Sports Playing Rules for Concussion*, ~~Playing Rules and which includes~~ its *Return to Play (RTP) Policy*.¹² These specifically require that:
- a. A student athlete who exhibits signs, symptoms, or behaviors consistent with a concussion in a practice or game shall be removed from participation or competition at that time.
 - b. A student athlete who has been removed from an interscholastic contest for a possible concussion or head injury may not return to that contest unless cleared to do so by a physician licensed to practice medicine in all its branches in Illinois or a certified athletic trainer.
 - c. If not cleared to return to that contest, a student athlete may not return to play or practice until the student athlete has provided his or her school with written clearance from a physician licensed to practice medicine in all its branches in Illinois or a certified athletic

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8 105 ILCS 5/22-80(f), added by P.A. 99-245; trailer legislation (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.

9 105 ILCS 5/22-80(g), added by P.A. 99-245; trailer legislation (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year. Most students with a concussion will not need a formal 504 plan or individualized education program; contact the board attorney whenever one is requested or the student's symptoms are prolonged.

10 105 ILCS 5/22-80(h), added by P.A. 99-245; trailer legislation (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year. Individuals covered by this training mandate must initially complete the training by 9-1-2016. See the footnotes in policy 5:100, *Staff Development Program*.

11 105 ILCS 5/22-80(i), added by P.A. 99-245; trailer legislation (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year. A template is available on the IHSA website under *Emergency Action Plan (EAP) Resources* at:

ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx.

12 The *Protocol for Implementation of NFHS Sports Playing Rules for Concussion* ~~Playing Rules~~ (<http://ihsa.org/documents/sportsMedicine/Concussion%20Protocols.pdf>) contains concussion information, ~~and~~ provides instructions when a student athlete sustains an apparent concussion, ~~and includes a Return to Play (RTP) Policy~~. The *Return to Play (RTP) Policy* addresses the requirements for returning a student athlete to play after he or she exhibits signs, symptoms, or behaviors of a concussion. ~~Available at:~~

~~ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx~~

trainer working in conjunction with a physician licensed to practice medicine in all its branches in Illinois.

3. Require that all high school coaching personnel, including the head and assistant coaches, and athletic directors obtain online concussion certification by completing online concussion awareness training in accordance with 105 ILCS 25/1.15. ¹³
4. Require all student athletes to view the Illinois High School Association's video about concussions. ¹⁴
5. Inform student athletes and their parents/guardians about this policy in the *Agreement to Participate* or other written instrument that a student athlete and his or her parent/guardian must sign before the student is allowed to participate in a practice or interscholastic competition. ¹⁵
6. Provide coaches and student athletes and their parents/guardians with educational materials from the Illinois High School Association regarding the nature and risk of concussions and head injuries, including the risks inherent in continuing to play after a concussion or head injury. ¹⁶
7. Include a requirement for staff members to notify the parent/guardian of a student who exhibits symptoms consistent with that of a concussion. ¹⁷

[For high school districts that belong to the IHSA and have certified athletic trainers.]

- 7-8. Include a requirement for certified athletic trainers to complete and submit a monthly report to the Illinois High School Association on student-athletes who have sustained a concussion during: 1) a school-sponsored activity overseen by the athletic trainer; or 2) a school-sponsored event of which the athletic director is made aware.*¹⁸

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

¹³ 105 ILCS 25/1.15(b), added by P.A. 98-1011, requires high school coaching personnel and athletic directors hired before 8-18-2014 to have been certified by 8-19-2015. Coaching personnel and athletic directors hired on or after 8-19-2014 must be certified before the starting date of their position.

¹⁴ 105 ILCS 25/1.15(e), added by P.A. 98-1011.

¹⁵ ~~105 ILCS 5/10-20-54 Required by 23 Ill. Admin. Code §1.530(b). This section was repealed by P.A. 99-245, but school districts should be guided by it until they fully comply with the Youth Sports Concussion Safety Act, which has a compliance deadline of the beginning of the 2016-2017 school year. School districts were required to include information about concussions in the student athlete agreement, contract, code, or written instrument that a student athlete and his or her parent/guardian are required to sign before participating in a practice or interscholastic competition. IHSA drafted a sample Concussion Information Sheet, also known as Sign-off (DOC) which is included within the IHSA Sports Medicine Acknowledgement & Consent Form. It and has been incorporated into 7:300-E1, Agreement to Participate. It can be used to inform student athletes and parents, and it is available at: ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx.~~

~~A student athlete and his/her parent/guardian must sign an acknowledgment of having received the district's concussion policy. An ISBE rule defines health-related information to include a concussion policy acknowledgment (23 Ill. Admin. Code §375.10). The acknowledgment, therefore, must be kept with the student's school student records as a temporary record (23 Ill. Admin. Code §375.40).~~

¹⁶ IHSA has produced educational materials on concussions for coaches, parents/guardians, student athletes, and the school and health care providers on concussions that are available at: ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx.

¹⁷ This provision is optional.

¹⁸ Required by 105 ILCS 25/1.20, added by P.A. 99-831, for high school districts that belong to the IHSA and have certified athletic trainers.

LEGAL REF.: 105 ILCS 5/22-80.
105 ILCS 25/1.15.

CROSS REF.: 4:170 (Safety), 7:300 (Extracurricular Athletics)

Students

Restrictions on Publications: Elementary Schools ¹

[For elementary or unit districts only]

School-Sponsored Publications and Web Sites

School-sponsored publications, productions, and web sites are part of the curriculum and are not a public forum for general student use. ² School authorities may edit or delete material that is inconsistent with the District's educational mission.

All school-sponsored communications shall comply with the ethics and rules of responsible journalism. Text that is libelous, obscene, vulgar, lewd, invades the privacy of others, conflicts with the basic educational mission of the school, is socially inappropriate, is inappropriate due to the maturity of the students, or is materially disruptive to the educational process will not be tolerated.

The author's name will accompany personal opinions and editorial statements. An opportunity for the expression of differing opinions from those published/produced will be provided within the same media.

Non-School Sponsored Publications Accessed or Distributed On-Campus ³

For purposes of this section and the following section, a *publication* includes, without limitation: (1) written or electronic print material, (2) audio-visual material on any medium including electromagnetic media (e.g., images, MP3 files, flash memory, etc.), or combinations of these whether off-line (e.g., a printed book, CD-ROM, etc.) or online (e.g., any website, social networking site, database for information retrieval, etc.), or (3) information or material on electronic devices (e.g., data or voice messages delivered by cell phones, tablets, and other hand-held devices). ⁴

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. It applies to elementary and unit districts with both elementary and high school students only. Unit districts should have this policy and policy 7:315, Restrictions on Publications: High Schools. The Speech Rights of Student Journalists Act, 105 ILCS 80/5, added by P.A. 99-678 applies to high school and unit districts.

² School authorities may reasonably regulate student expression in school-sponsored publications for education-related reasons. Hazelwood School District v. Kuhlmeier, 108 S.Ct. 562 (1988). This policy allows such control by clearly stating that school-sponsored publications are not a "public forum" open for general student use but are, instead, part of the curriculum.

A school board that does not retain control of student publications can anticipate at least two problems: (1) how to keep content consistent with the district's mission, and (2) how to ensure that the Constitutional rights of third parties are not violated by student journalists. Concerning the second problem, a third party may seek to hold the district responsible for the student journalists' acts. See Yeo v. Town of Lexington, 131 F.3d 241 (1st Cir. 1997), *cert. denied* (1998).

³ Non-school sponsored publications, like underground newspapers, cannot be subject to the same degree of regulation by school authorities as school-sponsored publications. Absent a showing of material and substantial interference with the requirements of good discipline, students retain their First Amendment free speech rights. The federal circuits disagree on whether school authorities may require prior approval before a student is allowed to distribute non-school-sponsored publications. The Seventh Circuit, which covers Illinois, refused to approve prior approval regulations. Fujishima v. Board of Education, 460 F.2d 1355 (7th Cir., 1972), but see Baughman v. Freienmuth, 478 F.2d 1345 (4th Cir., 1973). Non-school sponsored web sites should be regulated in the same manner as non-school sponsored publications.

A school policy prohibiting junior high students from distributing written material at school that is prepared by non-students was upheld in Hedges v. Wauconda Community Unit School Dist. No. 118, 9 F.3d 1295 (7th Cir. 1993).

⁴ The definition of *publication* is optional and may be amended. This sample definition uses broad and generally understood terms to keep the policy current with rapid technology changes.

Comment [KAS1]: RENAMED. This policy is RENAMED to restrict it to elementary students in response to the Speech Rights of Student Journalists Act, 105 ILCS 80/1, added by P.A. 99-678, which applies to high school students only. We added a footnote to discuss that **this policy applies to only elementary and unit districts with both elementary and high school students.**

Elementary districts subscribing to **PRESS** will have a title change only to this policy.

Unit districts subscribing to **PRESS** will now have two policies to address this topic:

1. This policy, which will apply to elementary students in the district, and
2. Policy 7:315, *Restrictions on Publications; High Schools.*

This split is necessary because the Speech Rights of Student Journalists Act, 105 ILCS 80/5, added by P.A. 99-678 applies to only high school and unit districts (because unit districts include high school students). Because the new Act does not apply to elementary students, splitting the policies into two provides the least amount of disruption to elementary and unit districts. For more discussion, see policy 7:315, *Restrictions on Publications; High Schools.*

Creating, distributing, and/or accessing non-school sponsored publications shall occur at a time and place and in a manner that will not cause disruption, be coercive, or result in the perception that the distribution or the publication is endorsed by the School District.

Students are prohibited from creating, distributing, and/or accessing at school any publication that:

1. Will cause substantial disruption of the proper and orderly operation and discipline of the school or school activities; ⁵
2. Violates the rights of others, including but not limited to material that is libelous, invades the privacy of others, or infringes on a copyright; ⁶
3. Is socially inappropriate or inappropriate due to maturity level of the students, including but not limited to material that is obscene, pornographic, or pervasively lewd and vulgar, contains indecent and vulgar language, or *sexting* as defined by School Board policy and Student Handbooks; ⁷
4. Is reasonably viewed as promoting illegal drug use; ⁸ or
5. Is distributed in kindergarten through eighth grade and is primarily prepared by non-students, unless it is being used for school purposes. Nothing herein shall be interpreted to prevent the inclusion of material from outside sources or the citation to such sources as long as the material to be distributed or accessed is primarily prepared by students. ⁹

Accessing or distributing *on-campus* includes accessing or distributing on school property or at school-related activities. A student engages in gross disobedience and misconduct and may be

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⁵ For example, a school district may discipline a student for writing an underground newspaper, and distributing it at school, that contained an article on how to hack into the school's computer. School authorities could reasonably believe the article would be disruptive. Boucher v. School Board of the School District of Greenfield, 134 F.3d 821 (7th Cir., 1998).

⁶ School officials may not regulate student speech based upon their fear or apprehension of disturbance. Many decisions address the tension between students' right to free speech and restrictions of it on campus. See, for example:

Brandt v. Board of Educ. of City of Chicago, 480 F.3d 460 (7th Cir., 2007), *cert. denied* (2007) (school did not violate students' First Amendment rights when it disciplined students for wearing T-shirts with a "talentless infantile drawing" that school officials reasonably found to undermine the educational atmosphere).

Nuxoll v. Indian Prairie School Dist. #204, 523 F.3d 668 (7th Cir., 2008) (holding that the student was likely to succeed on merits of his claim that the school would violate his speech rights by preventing him from wearing T-shirt with slogan "Be Happy, Not Gay").

J.C. v. Beverly Hills Unified Sch. Dist., 593 F.3d 249 (3rd Cir. 2010) (discussed the "rights of others to be secure and let alone" argument from Tinker, but found that the school district violated a student's First Amendment rights for disciplining her when she posted a video clip on a website).

B.H. v. Easton Area School District, 725 F.3d 293 (3rd Cir 2013), *cert. denied* (2014) (school violated students' free speech rights by banning the wearing of cancer awareness bracelets containing the caption **I♥boobies**).

⁷ Be sure that the board's definitions for *sexting* in this policy aligned with other definitions used throughout the board's policy manual. For example, see the discussion within sample administrative procedure 7:190-AP5, *Student Handbook-Electronic Devices*. There, *sexting* encompasses the term *indecent visual depiction* as defined by 705 ILCS405/3-40. It defines indecent visual depiction as a depiction or portrayal in any pose, posture, or setting involving a lewd exhibition of the buttocks, or if such person is a female, a fully or partially developed breast of the person. However, a district may create or have another definition of *sexting* that may or may not encompass the statutory term indecent visual depiction.

⁸ Morse v. Frederick, 551 U.S. 393 (2007).

⁹ Optional. The rationale for this section is that prior to high school, students have not developed sufficient experience and education in critical review of external resource materials. Accordingly, in order to accomplish the district's educational mission, yet allow students the opportunity to communicate with their fellow students, widespread student distribution of written material in elementary and middle school may be limited to material primarily prepared by the students themselves. Hedges v. Wauconda Community Unit School Dist. No. 118, 9 F.3rd 1295 (7th Cir. 1993); Leal v. Everett Public Schools, 2015 WL 728651 (W.D.Wash. 2015).

disciplined for: (1) accessing or distributing forbidden material, or (2) for writing, creating, or publishing such material intending for it to be accessed or distributed at school. ¹⁰

Non-School Sponsored Publications Accessed or Distributed Off-Campus ¹¹

A student engages in gross disobedience and misconduct and may be disciplined for creating and/or distributing a publication that: (1) causes a substantial disruption or a foreseeable risk of a substantial disruption to school operations, or (2) interferes with the rights of other students or staff members.

Bullying and Cyberbullying ¹²

The Superintendent or designee shall treat behavior that is *bullying* and/or *cyberbullying* according to Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, in addition to any response required by this policy.

LEGAL REF.: 105 ILCS 5/27-23.7
Hazelwood v. Kuhlmeier, 108 S.Ct. 562 (1988).
Hedges v. Wauconda Community Unit School Dist. No. 118, 9 F.3d 1295 (7th Cir. 1993).
Tinker v. Des Moines Indep. Cmty. Sch. Dist., 89 S.Ct. 733 (1969).

CROSS REF.: 6:235 (Access to Electronic Networks), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 8:25 (Advertising and Distributing Materials in School Provided by Non-School Related Entities)

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¹⁰ For example, a school district may discipline a student for writing an underground newspaper, and distributing it at school, that contained an article on how to hack into the school's computer. School authorities could reasonably believe the article would be disruptive. Boucher v. School Board of the School District of Greenfield, 134 F.3d 821 (7th Cir., 1998).

¹¹ Optional. School officials must proceed carefully before disciplining a student for out-of-school conduct. A school's authority over off-campus expression is much more limited than expression on school grounds. Many decisions address the tension between public schools' authority to discipline students for off-campus speech and students' right to free speech. However, school officials may generally: (1) remove a student from extracurricular activities when the conduct code for participation requires students to conduct themselves at all times as good citizens and exemplars of the school (see 7:240, *Conduct Code for Participants in Extracurricular Activities*); and (2) suspend or expel a student from school attendance when the student's expression causes substantial disruption to school operations, as provided in this policy (see also 7:190, *Student Discipline Behavior*). For example, see:

J.S. v. Blue Mountain Sch. Dist., combined with Layshock v. Hermitage Sch. Dist., 650 F.3d 205 (3d Cir. 2011), cert. denied (2012) (schools may not punish students for their off-campus indecent and offensive parodies of their principals, absent a showing that the parodies caused, or could cause, substantial disruption in the schools).

Kowalski v. Berkeley Cnty. Sch., 652 F.3d 565 (4th Cir. 2011), cert. denied (2012) (upheld a student's suspension for off-campus posts to a social network site that defamed a classmate because it was foreseeable that the expression would reach the school and the student's conduct involved substantial disruption and interference with the work and discipline of the school).

The statutory definition of *bullying* includes *cyberbullying* (105 ILCS 5/27-23.7); these terms are defined in 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment* (see also f/n 6 and 7:190-AP6, *Guidelines for Investigating Sexting Allegations*).

Consult the board attorney for guidance concerning off-campus speech. Every situation is fact specific and the issues require careful evaluation.

¹² 105 ILCS 5/27-23.7.

Students

Restrictions on Publications: High Schools ¹

[For high school or unit districts only]

Definitions ²

School official means a Building Principal or designee.

School-sponsored media means any material that is prepared, substantially written, published, or broadcast by a student journalist, distributed or generally made available to members of the student body, and prepared under the direction of a student media advisor. It does not include media intended for distribution or transmission solely in the classroom in which the media is produced.

Student journalist means a public high school student who gathers, compiles, writes, edits, photographs, records, or prepares information for dissemination in school-sponsored media.

*Student media adviser*³ means an individual employed, appointed, or designated by the District to supervise or provide instruction relating to school-sponsored media.

School-Sponsored Media Publications and Web Sites

School-sponsored publications, productions, and web-sites are governed by the Speech Rights of Student Journalists Act and the School Board policies part of the curriculum and are not a public forum for general student use.⁴ Student journalists may not use school-sponsored media that: ⁵

1. Is libelous, slanderous, or obscene;
2. Constitutes an unwarranted invasion of privacy;
3. Violates federal or State law, including the Constitutional rights of third parties;⁶ or

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.

² Speech Rights of Student Journalists Act, 105 ILCS 80/5, added by P.A. 99-678.

³ Id. uses adviser, not advisor. Adviser is used throughout this policy for consistency with the statute.

⁴ Id. With some exceptions, the Act effectively restricts school authorities' power to may reasonably regulate student expression in high school-sponsored publications for education-related reasons under Hazelwood School District v. Kuhlmeier, 108 S.Ct. 562 (1988). This policy allows such control by clearly stating that school-sponsored publications are not a "public forum" open for general student use but are, instead, part of the curriculum. See the last sentence in f/n 4, below.

⁵ 105 ILCS 80/15, added by P.A. 99-678. A school board may that does not retain control of material in student publications can anticipate at least two problems that falls within the listed exceptions: (1) how to keep content consistent with the district's mission, and (2) how to ensure that the Constitutional rights of third parties are not violated by student journalists. Consult the board attorney about how much control of high school student publications school officials may retain in the context of the Speech Rights of Student Journalists Act.

⁶ 105 ILCS 80/15, added by P.A. 99-678.

Delete "including Constitutional rights of third parties" if the board wants only the word-for-word statutory language in its policy. Because the Constitutional rights of third parties are common controversies within the context of student-sponsored publications, the purpose of this text is to underscore that Constitutional rights of third parties are included under the exception of State and federal law.

Comment [KAS1]: NEW. This policy is based upon formerly-titled **PRESS** policy 7:310, *Restrictions on Publications*. It is named to reflect its applicability to high school students only. As discussed in policy 7:310, *Restrictions on Publications; Elementary Students*, we renamed that policy to reflect its applicability to elementary students only.

High school districts subscribing to **PRESS** will need to delete their former policy 7:310, *Restrictions on Publications* and adopt only this policy, 7:315 *Restrictions on Publications; High Schools*.

Unit districts subscribing to **PRESS** will now have two policies to address this topic:

1. **RENAMED** policy 7:310, *Restrictions on Publications; Elementary Schools*, which will apply to elementary students in the district, and
2. This policy, which will apply to high school students.

The text, Legal References, and footnotes within the formerly-titled **PRESS** policy 7:310, *Restrictions on Publications* were used as the base for this new policy. The updates are in response to the Speech Rights of Student Journalists Act, 105 ILCS 80/1, added by P.A. 99-678. The law significantly watered down *Hazelwood restrictions* for public high school students in Illinois. The Act; however, does not authorize or protect expression by a student journalist that: (1) is libelous, slanderous, or obscene; (2) constitutes an unwarranted invasion of privacy; (3) violates federal or State law; or (4) so incites students as to create a clear and present danger of the commission of an unlawful act, the violation of policies of the school district, or material and substantial disruption of the orderly operation of the school." While *Hazelwood* was not explicitly overturned by this Act and may still have some applicability in certain situations, school officials must consult their board attorneys before prior restraint of student publications.

Comment [KAS2]: This law puts a significant dent in *Hazelwood* restrictions.

4. Incites students to: 7

a. Commit an unlawful act;

b. Violate is inconsistent with any of the District's policies, including but not limited to (1) its educational mission in policies 1:30, School District Philosophy and 6:10, Educational Philosophy and Objectives, and (2) speech that is socially inappropriate or inappropriate due to the maturity of the students pursuant to policies 6:65, Student Social and Emotional Development, and 7:180, Prevention of and Response to Bullying, Intimidation, and Harassment; or

c. Materially and substantially disrupt the orderly operation of the school.

All school-sponsored ~~media communications~~ shall comply with the ethics and rules of responsible journalism. Text that ~~fits into numbers one (1) through four (4) above is libelous, obscene, vulgar, lewd, invades the privacy of others, conflicts with the basic educational mission of the school, is socially inappropriate, is inappropriate due to the maturity of the students, or is materially disruptive to the educational process~~ will not be tolerated and school officials and student media advisers may edit or delete such media material.

The author's name will accompany personal opinions and editorial statements. An opportunity for the expression of differing opinions from those published/produced will be provided within the same media.

No expression made by students in the exercise of freedom of speech or freedom of the press under this policy shall be deemed to be an expression of the District or an expression of Board policy. 8

Non-School Sponsored Publications Accessed or Distributed On-Campus 9

For purposes of this section and the following section, a *publication* includes, without limitation: (1) written or electronic print material, (2) audio-visual material on any medium including

~~Concerning the second problem, While 105 ILCS 80/20 limits liability of school districts for a student journalist's expression, except in cases of willful or wanton misconduct, some attorneys believe it may still be possible that a third party may seek to hold the district responsible for the student journalists' acts. See *Yeo v. Town of Lexington*, 131 F.3d 241 (1st Cir. 1997), cert. denied (1998). See the second sentence in f/n 1, above.~~

~~7 105 ILCS 80/15, added by P.A. 99-678. School officials must be careful to understand that that law is written that student journalists using media to incite other students to act a certain way is the exception. This additional text (1) underscores that 105 ILCS 80/15 does not authorize or protect expression that incites students to violate board policies, and (2) reminds students and the community that school officials have many legal obligations to implement and enforce specific board policies and ensure school environments are safe and conducive to learning. See the second sentence in f/n 1, above.~~

~~While Section 20 of the Act limits liability of school districts for a student journalist's expression, except in cases of willful or wanton misconduct, discuss with the board attorney how to balance the rights of student journalists under this law and the other policy implementation duties that face school officials with board policies and laws.~~

~~For boards that only want the word-for-word statutory language in their policies, delete:~~

~~including but not limited to (1) its educational mission in policies 1:30, School District Philosophy and 6:10, Educational Philosophy and Objectives, and (2) speech that is socially inappropriate or inappropriate due to the maturity of the students pursuant to policies 6:65, Student Social and Emotional Development and 7:180, Prevention of and Response to Bullying, Intimidation, and Harassment.~~

~~8 105 ILCS 80/20, added by P.A. 99-678.~~

⁹ Non-school sponsored publications, like underground newspapers, cannot be subject to the same degree of regulation by school authorities as school-sponsored publications. Absent a showing of material and substantial interference with the requirements of good discipline, students retain their First Amendment free speech rights. The federal circuits disagree on whether school authorities may require prior approval before a student is allowed to distribute non-school-sponsored publications. The Seventh Circuit, which covers Illinois, refused to approve prior approval regulations. *Fujishima v. Board of Education*, 460 F.2d 1355 (7th Cir., 1972), but see *Baughman v. Freiemuth*, 478 F.2d 1345 (4th Cir., 1973). Non-school sponsored web sites should be regulated in the same manner as non-school sponsored publications.

A school policy prohibiting junior high students from distributing written material at school that is prepared by non-students was upheld in *Hedges v. Wauconda Community Unit School Dist. No. 118*, 9 F.3d 1295 (7th Cir. 1993).

Comment [KAS3]: This text has been moved up from the following paragraph as it existed in former policy 7:310. It shows as deleted in the next paragraph. That deleted text was reordered and moved up in the policy based upon the language in the new law.

Comment [KAS4]: Former policy 7:310 text is now covered now under number 1 above.

Comment [KAS5]: Former policy 7:310 text is now covered now under number 1 above.

Comment [KAS6]: Former policy 7:310 text is now moved up to number 4.b. above.

Comment [KAS7]: Former policy 7:310 text is now moved up to number 4.b. above.

Comment [KAS8]: Former policy 7:310 text is now moved up to number 4.c. above.

electromagnetic media (e.g., images, MP3 files, flash memory, etc.), or combinations of these whether off-line (e.g., a printed book, CD-ROM, etc.) or online (e.g., any website, social networking site, database for information retrieval, etc.), or (3) information or material on electronic devices (e.g., data or voice messages delivered by cell phones, tablets, and other hand-held devices). **10**

Creating, distributing, and/or accessing non-school sponsored publications shall occur at a time and place and in a manner that will not cause disruption, be coercive, or result in the perception that the distribution or the publication is endorsed by the School District.

Students are prohibited from creating, distributing, and/or accessing at school any publication that:

1. Will cause a material and substantial disruption of the proper and orderly operation and discipline of the school or school activities; **11**
2. Violates the rights of others, including but not limited to material that is libelous, slanderous or obscene, or invades the privacy of others, or infringes on a copyright; **12**
3. Is socially inappropriate or inappropriate due to maturity level of the students, including but not limited to material that is obscene, pornographic, or pervasively lewd and vulgar, contains indecent and vulgar language, or *sexting* as defined by School Board policy and Student Handbooks; **13**
4. Is reasonably viewed as promoting illegal drug use; **14** ~~or~~
5. Is distributed in kindergarten through eighth grade and is primarily prepared by non-students, unless it is being used for school purposes. However, Nothing herein shall be interpreted to prevent the inclusion of material from outside sources or the citation to such sources may be

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10 The definition of *publication* is optional and may be amended. This sample definition uses broad and generally understood terms to keep the policy current with rapid technology changes.

11 For example, a school district may discipline a student for writing an underground newspaper, and distributing it at school, that contained an article on how to hack into the school's computer. School authorities could reasonably believe the article would be disruptive. Boucher v. School Board of the School District of Greenfield, 134 F.3d 821 (7th Cir., 1998).

12 School officials may not regulate student speech based upon their fear or apprehension of disturbance. Many decisions address the tension between students' right to free speech and restrictions of it on campus. See, for example:

Brandt v. Board of Educ. of City of Chicago, 480 F.3d 460 (7th Cir., 2007), *cert. denied* (2007) (school did not violate students' First Amendment rights when it disciplined students for wearing T-shirts with a "talentless infantile drawing" that school officials reasonably found to undermine the educational atmosphere).

Nuxoll v. Indian Prairie School Dist. #204, 523 F.3d 668 (7th Cir., 2008) (holding that the student was likely to succeed on merits of his claim that the school would violate his speech rights by preventing him from wearing T-shirt with slogan "Be Happy, Not Gay").

J.C. v. Beverly Hills Unified Sch. Dist., 593 F.3d 249 (3rd Cir. 2010) (discussed the "rights of others to be secure and let alone" argument from Tinker, but found that the school district violated a student's First Amendment rights for disciplining her when she posted a video clip on a website).

B.H. v. Easton Area School District, 725 F.3d 293 (3rd Cir 2013), *cert. denied* (2014) (school violated students' free speech rights by banning the wearing of cancer awareness bracelets containing the caption **I♥boobies**).

13 Be sure that the board's definitions for *sexting* in this policy aligned with other definitions used throughout the board's policy manual. For example, see the discussion within sample administrative procedure 7:190-AP5, *Student Handbook-Electronic Devices*. There, *sexting* encompasses the term *indecent visual depiction* as defined by 705 ILCS405/3-40. It defines indecent visual depiction as a depiction or portrayal in any pose, posture, or setting involving a lewd exhibition of the buttocks, or if such person is a female, a fully or partially developed breast of the person. However, a district may create or have another definition of *sexting* that may or may not encompass the statutory term *indecent visual depiction*.

14 Morse v. Frederick, 551 U.S. 393 (2007).

allowed, as long as the material to be distributed or accessed is primarily prepared by students; **15** or

~~5-6~~. Incites students to violate any Board policies.

Accessing or distributing *on-campus* includes accessing or distributing on school property or at school-related activities. A student engages in gross disobedience and misconduct and may be disciplined for: (1) accessing or distributing forbidden material, or (2) for writing, creating, or publishing such material intending for it to be accessed or distributed at school. **16**

Non-School Sponsored Publications Accessed or Distributed Off-Campus 17

A student engages in gross disobedience and misconduct and may be disciplined for creating and/or distributing a publication that: (1) causes a substantial disruption or a foreseeable risk of a substantial disruption to school operations, or (2) interferes with the rights of other students or staff members.

Bullying and Cyberbullying 18

The Superintendent or designee shall treat behavior that is *bullying* and/or *cyberbullying* according to Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, in addition to any response required by this policy.

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15 Optional. The rationale for this section is that prior to high school, students have not developed sufficient experience and education in critical review of external resource materials. Accordingly, in order to accomplish the district's educational mission, yet allow students the opportunity to communicate with their fellow students, widespread student distribution of written material in elementary and middle school may be limited to material primarily prepared by the students themselves. Hedges v. Wauconda Community Unit School Dist. No. 118, 9 F.3d 1295 (7th Cir. 1993); Leal v. Everett Public Schools, 2015 WL 728651 (W.D.Wash., 2015).

16 For example, a school district may discipline a student for writing an underground newspaper, and distributing it at school, that contained an article on how to hack into the school's computer. School authorities could reasonably believe the article would be disruptive. Boucher v. School Board of the School District of Greenfield, 134 F.3d 821 (7th Cir., 1998).

17 Optional. School officials must proceed carefully before disciplining a student for out-of-school conduct. A school's authority over off-campus expression is much more limited than expression on school grounds. Many decisions address the tension between public schools' authority to discipline students for off-campus speech and students' right to free speech. However, school officials may generally: (1) remove a student from extracurricular activities when the conduct code for participation requires students to conduct themselves at all times as good citizens and exemplars of the school (see 7:240, *Conduct Code for Participants in Extracurricular Activities*); and (2) suspend or expel a student from school attendance when the student's expression causes substantial disruption to school operations, as provided in this policy (see also 7:190, *Student Discipline Behavior*). For example, see:

J.S. v. Blue Mountain Sch. Dist., combined with Layshock v. Hermitage Sch. Dist., 650 F.3d 205 (3rd Cir. 2011), cert. denied (2012) (schools may not punish students for their off-campus indecent and offensive parodies of their principals, absent a showing that the parodies caused, or could cause, substantial disruption in the schools).

Kowalski v. Berkeley Cnty. Sch., 652 F.3d 565 (4th Cir. 2011), cert. denied (2012) (upheld a student's suspension for off-campus posts to a social network site that defamed a classmate because it was foreseeable that the expression would reach the school and the student's conduct involved substantial disruption and interference with the work and discipline of the school).

The statutory definition of *bullying* includes *cyberbullying* (105 ILCS 5/27-23.7); these terms are defined in 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment* (see also f/n 6 and 7:190-AP6, *Guidelines for Investigating Sexting Allegations*).

Consult the board attorney for guidance concerning off-campus speech. Every situation is fact specific and the issues require careful evaluation.

18 105 ILCS 5/27-23.7.

7:340315

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LEGAL REF.: 105 ILCS 5/27-23.7
[Speech Rights of Student Journalists Act, 105 ILCS 80/](#)
[Hazelwood v. Kuhlmeier](#), 108 S.Ct. 562 (1988).
[Hedges v. Wauconda Community Unit School Dist. No. 118](#), 9 F.3d 1295 (7th Cir.
1993).
[Tinker v. Des Moines Indep. Cmty. Sch. Dist.](#), 89 S.Ct. 733 (1969)
[Morse v. Frederick](#), 551 U.S. 393 (2007).

CROSS REF.: [1:30 \(School District Philosophy\)](#), [6:10 \(Educational Philosophy and Objectives\)](#),
[6:65 \(Student Social and Emotional Development\)](#), 6:235 (Access to Electronic
Networks), 7:180 (Prevention of and Response to Bullying, Intimidation, and
Harassment), 8:25 (Advertising and Distributing Materials in School Provided by
Non-School Related Entities)

Comment [KAS1]: Policy is unchanged but a Cross Reference is updated. A footnote explanation is updated and expanded due to amendments to the Illinois Marriage and Dissolution of Marriage Act by P.A. 99-763, eff. 1-1-17.

Students

Student Records 1

School student records are confidential. Information from them shall not be released other than as provided by law.² A school student record is any writing or other recorded information concerning a student and by which a student may be identified individually that is maintained by a school or at its

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¹ State law requires school boards to adopt policy and procedures implementing the Illinois School Student Records Act (ISSRA) and specifying the content of school student records (23 Ill.Admin.Code §§375.100 and 226.740). Both State and federal law address school student records. See the federal Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, [implemented by federal rules at 34 C.F.R. Part 99](#), and the [Ill. School Student Records Act \(ISSRA\)](#), 105 ILCS 10/, implemented by ISBE rules at 23 Ill.Admin.Code Part 375). In addition, the U.S. Dept. of Ed.'s Privacy Technical Assistance Center (PTAC), a *one-stop* resource for education stakeholders to learn about data privacy, confidentiality, and security practices related to student-level longitudinal data systems, has information available at: ptac.ed.gov/. **Recently**, PTAC published a guide for school officials titled *Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices*, available at: tech.ed.gov/wp-content/uploads/2014/09/Student-Privacy-and-Online-Educational-Services-February-2014.pdf. **School officials interested in cloud computing contracts should contact the board attorney.**

Confusion persists regarding the interplay between the FERPA and the Health Insurance Portability and Accountability Act of 1996 (HIPAA). The Privacy Rule implementing HIPAA, issued by the U.S. Dept. of Health and Human Services, addresses the disclosure of individuals' health information by *covered entities*. Generally speaking, a school district becomes a *covered entity*, and must comply with applicable sections in the Privacy Rule, if it provides health care and transmits health information in electronic form in connection with transactions. However, *educational records* as defined by FERPA are excluded from HIPAA's definition of *protected health information* (45 C.F.R. §160.1034-504). In most cases this exception relieves school districts of complying with burdensome privacy notices and authorization forms. The board attorney should be consulted on all HIPAA-related questions.

² A plethora of statutory and decisional law protects student records. Aside from the laws identified in *fn 1*, other laws protecting student records include:

1. Schools may not provide a student's *personal information* to a business organization or financial institution that issues credit or debit cards (105 ILCS 5/10-20.378).
2. Schools may not sell personal information concerning a child under the age of 16, with a few exceptions, unless a parent has consented (Children's Privacy Protection and Parental Empowerment Act, 325 ILCS 17/).
3. The release of confidential information given by a student to a therapist, e.g., school counselor or psychologist, is governed by the Mental Health and Developmental Disabilities Confidentiality Act (740 ILCS 110/).
4. Schools must keep a sex offender registration form received from law enforcement separately from school student records maintained on behalf of the juvenile sex offender (730 ILCS 152/121).
5. Schools may not provide a parent/guardian who is not allocated *parenting time* (formerly *visitation*) access to his or her child's school records, unless a court finds that it is in the child's best interests to provide those records to the parent (The Illinois Marriage and Dissolution of Marriage Act, 750 ILCS 5/602.11, amended by P.A. 99-90).
- 5-6. [Schools may not provide a parent/guardian access to his or her child's school records if the parent is prohibited by an order of protection from inspecting or obtaining such records pursuant to the Domestic Violence Act of 1986 or the Code of Criminal Procedure of 1963 \(The Illinois Marriage and Dissolution of Marriage Act, 750 ILCS 5/602.11, amended by P.A. 99-763, eff. 1-1-17\).](#)

Note: Nos. 5 and 6 may conflict with FERPA in that they restrict a parent/guardian's right to access his or her child's school records more than is expressly permitted by FERPA. 20 U.S.C. 1232g(a)(1)(A), (B); 34 C.F.R. 99.10(a). **Consult the board attorney for guidance.**

Allowing students to grade each other's papers does not violate FERPA; such student work is not a *school record* until it is recorded by the teacher. *Owasso I.S.D. No. I-011 v. Falvo*, 122 S.Ct. 934 (2002). School student records are *per se* prohibited from disclosure; a district is under no obligation to redact them. *Chicago Tribune Co. v. Chicago Bd. of Ed.*, 773 N.E.2d 674 (Ill.App.1, 2002).

direction by a school employee, regardless of how or where the information is stored, except as provided in State or federal law as summarized below: ³

1. Records kept in a staff member's sole possession.
2. Records maintained by law enforcement officers working in the school.
3. Video and other electronic recordings (including without limitation, electronic recordings made on school buses⁴) that are created in part for law enforcement, security, or safety reasons or purposes. The content of these recordings may become part of a school student record to the extent school officials create, use, and maintain this content, or it becomes available to them by law enforcement officials, for disciplinary or special education purposes regarding a particular student.
4. Any information, either written or oral, received from law enforcement officials concerning a student less than the age of 17 years who has been arrested or taken into custody. ⁵

State and federal law grants students and parents/guardians certain rights, including the right to inspect, copy, and challenge school student records. The information contained in school student records shall be kept current, accurate, clear, and relevant. All information maintained concerning a student receiving special education services shall be directly related to the provision of services to that child.⁶ The District may release directory information as permitted by law, but a parent/guardian shall have the right to object to the release of information regarding his or her child.⁷ However, the

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³ 20 U.S.C. §1232g(a)(4)(A); 34 C.F.R. §99.3; 105 ILCS 10/2(d); 705 ILCS 405/1-7 and 5-905; 23 Ill.Admin.Code §375.10. Rather than listing the exceptions in the policy, a school board may choose to end the sentence after the proviso "except as provided in State or federal law."

⁴ For an explanation, see footnotes in 7:220, *Bus Conduct*.

⁵ Many lawyers believe that once these records are received by a school, they are protected as *education records* under the federal Family Educational Rights and Privacy Act, 20 U.S.C. §1232g. Consult the board attorney for advice.

⁶ 23 Ill.Admin.Code §226.740(a).

⁷ This sentence is required if the board allows schools to release student directory information (20 U.S.C. §1232g; 23 Ill.Admin.Code §375.80; 34 C.F.R. §99.376(a)(4)). There is at least one instance in Illinois in which parents were upset that their school district released students' names and addresses pursuant to a Freedom of Information Act (FOIA) request. FOIA contains an exemption for home addresses. Many lawyers, however, say that a district must release student information pursuant to a FOIA request when each of the following has occurred: the FOIA request seeks information that is included in the district's definition of student directory information, the district notified parents that it releases directory information, and the parents did not opt out of allowing directory information to be released concerning their child. An opinion from the Ill. Public Access Counselor supports that a district may not rely on the FOIA exemption for home addresses (PAO 12-3).

The **PRESS** policy does not identify the components of *directory information*, leaving that task to implementing material. Boards may want to discuss this quagmire with the superintendent knowing that there are good reasons to release directory information (e.g., to allow the district to publish information about specific students) and good reasons to not release directory information (e.g., to avoid releasing names and addresses pursuant to a FOIA request).

23 Ill.Admin.Code 375.80(a)(1) includes *gender* as information which may be designated as directory information; however including *gender* within directory information may violate the federal Family Educational Rights and Privacy Act (FERPA). FERPA regulations provide that directory information "means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed" and it "includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended." 34 C.F.R. 99.3. Though FERPA regulations do not explicitly preclude the designation of *gender* as directory information, U.S. Department of Education (ED) guidance has consistently advised schools not to disclose a student's sex as directory information because it would be considered harmful or an invasion of privacy. See *Letter to Institutions of Postsecondary Education*, ED Family Policy Compliance Office (September 2009); *Dear Colleague Letter on Transgender Students*, ED and U.S. Department of Justice (May 13, 2016). Consult the board attorney about the practical implementation of this issue. Some attorneys, for example, believe photos of the "Girls Volleyball Team" may contradict ED guidance.

District will comply with an *ex parte* court order requiring it to permit the U.S. Attorney General or designee to have access to a student's school records without notice to, or the consent of, the student's parent/guardian.⁸ Upon request, the District discloses school student records without consent to officials of another school district in which a student has enrolled or intends to enroll, as well as to any person as specifically required by State or federal law.

The Superintendent shall fully implement this policy and designate an *official records custodian* for each school who shall maintain and protect the confidentiality of school student records, inform staff members of this policy, and inform students and their parents/guardians of their rights regarding school student records.⁹

Student Biometric Information Collection ¹⁰

The Superintendent or designee may recommend a student biometric information collection system solely for the purposes of identification and fraud prevention.¹¹ Such recommendation shall be consistent with budget requirements and in compliance with State law. Biometric information means any information that is collected through an identification process for individuals based on their unique behavioral or physiological characteristics, including fingerprint, hand geometry, voice, or facial recognition or iris or retinal scans.

Before collecting student biometric information, the District shall obtain written permission from the person having legal custody/parental responsibility¹² or the student (if over the age of 18).¹³ Upon a student's 18th birthday, the District shall obtain written permission from the student to collect student

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⁸ 20 U.S.C. §1232(g)(j), as added by the Sec. 507 of the U.S.A. Patriot Act of 2001.

⁹ Each school must have an *official records custodian* (105 ILCS 10/4(a)). Districts must notify students and parents/guardians of their rights concerning school student records (105 ILCS 10/3; 23 Ill.Admin.Code §375.30; 34 C.F.R. §99.7). Comprehensive faculty and student handbooks can provide required notices, along with other important information, to recipients. Handbooks can be developed by the building principal, but should be reviewed and approved by the superintendent and board. See exhibit 7:340-AP1, E1, *Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records*, and administrative procedure 7:340-AP1, *School Student Records*.

¹⁰ This program is optional; however, districts either wishing to implement such a program or districts that have already engaged in the collection of student biometric information must have a policy consistent with the requirements of 105 ILCS 5/10-20.40 *et seq.* This section restates the School Code's requirements for a student biometric information policy.

¹¹ For districts already collecting biometric information, the following is an alternative:

The Superintendent or designee shall maintain a biometric screening program that is consistent with budget requirements and in compliance with State law.

¹² Several statutes define legal custody and when a court may grant it; the term requires statutory construction/interpretation and school boards should discuss this issue with their attorney prior to adopting a policy on collection of student biometric information.

105 ILCS 5/10-20.40(b)(1) states the definition of legal custody is the same as the definition of legal custody for purposes of residency, payment of tuition, hearings, and criminal penalties at 105 ILCS 5/10-20.12b(2)(i)-(v).

The Illinois Marriage and Dissolution of Marriage Act, 750 ILCS 5/, amended by P.A. 99-90, changed the terms *custody* and *visitation* to *parental responsibility* and *parenting time*, respectively. P.A. 99-90 also requires a *parenting plan* that allocates (1) significant decision-making responsibilities, and (2) each parent's right to access his or her child's school records. The new law does not amend ISSRA or the School Code. **Consult the board attorney about whether the Illinois Marriage and Dissolution of Marriage Act's provisions change a noncustodial parent's ability to access a student's records.**

¹³ Based upon 105 ILCS 5/10-20.40, written permission is not required annually; it is valid until a request for discontinuation of the use of biometric information is received or until the student reaches the age of 18. See 7:340-AP1, E5, *Biometric Information Collection Authorization*.

biometric information.¹⁴ Failure to provide written consent to collect biometric information shall not be the basis for refusal of any services otherwise available to a student.

All collected biometric information shall be stored and transmitted in a manner that protects it from disclosure. Sale, lease, or other disclosure of biometric information to another person or entity is strictly prohibited.¹⁵

The District will discontinue use of a student's biometric information and destroy all collected biometric information within 30 days after: (1) the student graduates or withdraws from the School District, or (2) the District receives a written request to discontinue use of biometric information from the person having legal custody/parental responsibility of the student or the student (if over the age of 18).¹⁶ Requests to discontinue using a student's biometric information shall be forwarded to the Superintendent or designee.

The Superintendent or designee shall develop procedures to implement this policy consistent with State and federal law.¹⁷

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

¹⁴ Districts must reissue 7:340-AP1, E5, *Biometric Information Collection Authorization* to students turning 18 years of age during the school year. This is because all rights and privileges accorded to a parent under the Ill. School Student Records Act become exclusively those of the student upon his or her 18th birthday, graduation from secondary school, marriage, or entry into military service, whichever comes first. 105 ILCS 10/2(g).

¹⁵ State law contains two exceptions: (1) the individual who has legal custody/parental responsibility of the student or the student (if over the age of 18) consents to the disclosure, and (2) the disclosure is required by court order. 105 ILCS 10-20.40(b)(5); 750 ILCS 5/602.11, amended by P.A. 99-90.

¹⁶ 105 ILCS 5/10-20.40(d). No notification to or approval from the district's local records commission, pursuant to the Local Records Act, is required to destroy student biometric information. See f/n 12 for a discussion about the terms *custody* and *parental responsibility*.

¹⁷ Whether the student biometric information is an education record under FERPA, 20 U.S.C. §1232g, or falls under an exception to an education record under FERPA is an issue about which school boards should consult their board attorney. Protected Health Information under the U.S. Department of Health and Human Service's interpretations of the HIPAA excludes education records covered by FERPA, and thus HIPAA requirements are not expected to be triggered by districts collecting student biometric information. However, before implementing policies and procedures to collect student biometric information, a board should discuss these issues with the board attorney.

- LEGAL REF.: Chicago Tribune Co. v. Chicago Bd. of Ed., 773 N.E.2d 674 (Ill.App.1, 2002).
Owasso I.S.D. No. I-011 v. Falvo, 122 S.Ct. 934 (2002).
Family Educational Rights and Privacy Act, 20 U.S.C. §1232g; 34 C.F.R. Part 99.
Children’s Privacy Protection and Parental Empowerment Act, 325 ILCS 17/
105 ILCS 5/10-20.21b, 20.37, 20.40, 5/14-1.01 et seq., and 10/
50 ILCS 205/7.
750 ILCS 5/602.11.
23 Ill.Admin.Code Parts 226 and 375.
- CROSS REF.: 5:100 (Staff Development Program), 5:130 (Responsibilities Concerning Internal Information), 7:15 (Student and Family Privacy Rights), 7:220 (Bus Conduct)
- ADMIN PROC.: 7:15-E (Notification to Parents of Family Privacy Rights), 7:340-AP1 (School Student Records), 7:340-AP1, E1 (Notice to Parents/Guardians and Students of Their Rights Concerning a Student’s School Records), 7:340-AP1, E3 (Letter to Parents and Eligible Students Concerning Military Recruiters and Postsecondary Institutions Receiving Student Directory Information), 7:340-AP2 (Storage and Destruction of School Student Records), 7:340-AP2, E1 (Schedule for Destruction of School Student Records)

Comment [KAS1]: Policy, Cross References, and footnotes are updated. The Cross References are updated to reflect that SB 100 is now law.

The policy is updated upon **PRESS** Advisory Board feedback. **Consult the board attorney about this issue. Please see its corresponding f/n 16.**

Community Relations

Visitors to and Conduct on School Property ¹

The following definitions apply to this policy:

School property - District and school buildings, grounds, and parking areas; vehicles used for school purposes; and any location used for a School Board meeting, school athletic event, or other school-sponsored event.

Visitor - Any person other than an enrolled student or District employee.

All visitors to school property are required to report to the Building Principal's office and receive permission to remain on school property. All visitors must sign a visitors' log, show identification, and wear a visitor's badge. When leaving the school, visitors must return their badge. On those occasions when large groups of parents and friends are invited onto school property, visitors are not required to sign in but must follow school officials' instructions. Persons on school property without permission will be directed to leave and may be subject to criminal prosecution. ²

Except as provided in the next paragraph, any person wishing to confer with a staff member should contact that staff member by telephone or email to make an appointment. Conferences with teachers are held, to the extent possible, outside school hours or during the teacher's conference/preparation period.

Requests to access a school building, facility, and/or educational program, or to interview personnel or a student for purposes of assessing the student's special education needs, should be made at the appropriate building. Access shall be facilitated according to guidelines from the Superintendent or designee. 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. Boards may make and enforce reasonable rules of conduct and sportsmanship for school events and deny future admission to school events to violators for up to one year provided a notice and hearing are given (105 ILCS 5/24-24). This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

² This paragraph is up to the local board's discretion. Many public school buildings were built before school security was the concern it is now. A first step in creating a secure environment is to manage access to school buildings. Along with limiting the entrances that may be used, school officials should post signs with instructions for visitors and a warning to trespassers. Signs may be as simple as "Visitors Must Report to Office" and "No Trespassing – Violators will be Prosecuted." Applicable criminal trespass laws include: 720 ILCS 5/21-1 (criminal damage to property); 5/21-1.2 (institutional vandalism); 5/21-3 (criminal trespass to real property); 5/21-5 (criminal trespass to State supported land); 5/21-5.5 (criminal trespass to a safe school zone); 5/21-9 (criminal trespass to a place of public amusement); 5/21-11 (distributing or delivering written or printed solicitation on school property). This sample policy identifies board members as visitors.

The following optional provisions must be modified according to local conditions:

- Option 1: The Superintendent or designee may post certain school facilities for the community's use on non-school days when they are not being used for school purposes.
- Option 2: The Superintendent or designee shall manage a program to allow community use of the following facilities on non-school days, during the daylight, provided they are not being used for school purposes: tennis courts, playground, and track.

³ 105 ILCS 5/14-8.02(g-5). See administrative procedure 6:120-AP2, *Access to Classrooms and Personnel*, and exhibit 6:120-AP2, E1, *Request to Access Classroom(s) or Personnel for Special Education Evaluation and/or Observation Purposes*.

The School District expects mutual respect, civility, and orderly conduct among all people on school property or at a school event. No person on school property or at a school event (including visitors, students, and employees) shall perform any of the following acts:

1. Strike, injure, threaten, harass, or intimidate a staff member, a Board member, sports official or coach, or any other person. ⁴
2. Behave in an unsportsmanlike manner, or use vulgar or obscene language.
3. Unless specifically permitted by State law, possess a weapon, any object that can reasonably be considered a weapon or looks like a weapon, or any dangerous device. ⁵
4. Damage or threaten to damage another's property. ⁶
5. Damage or deface school property. ⁷
6. Violate any Illinois law, ⁸ or town or county ordinance.
7. Smoke or otherwise use tobacco products. ⁹
8. Distribute, consume, use, possess, or be under the influence of an alcoholic beverage or illegal drug; be present when the person's alcohol or illegal drug consumption is detectible, regardless of when and/or where the use occurred. ¹⁰
9. Use or possess medical cannabis. ¹¹

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

⁴ See e.g., 720 ILCS 5/12-2-(~~aggravated assault~~); 5/12-3.05(c) and (d)(3)(~~crimes on school property; aggravated battery~~ (~~assaulting~~ a sports official or coach or school employee); 5/12-9-(threats to public officials); 5/24-1.2-(~~discharge of a firearm~~ ~~crimes against school employees~~).

⁵ With one exception, a license to carry a firearm does not permit an individual to carry a concealed firearm on or into any building, real property, and or parking area under the control of an elementary or secondary school, or any bus paid for in whole or part with public funds (430 ILCS 66/65(a), added by P.A. 98-630 and amended by P.A. 99-29). The following optional provision adds that exception, which is a restatement of 430 ILCS 66/65(b), added by P.A. 98-630 and amended by P.A. 99-29, to the text in number 3:

An individual licensed to carry a concealed firearm under the Illinois Firearm Concealed Carry Act is permitted to: (a) carry a concealed firearm within a vehicle into a parking area controlled by a school or the District and may store a firearm or ammunition concealed in a case within a locked vehicle or locked container out of plain view within the vehicle in the parking area, and/or (b) carry a concealed firearm in the immediate area surrounding his or her vehicle in a parking area controlled by a school or the District for the limited purpose of storing or retrieving a firearm within the vehicle's trunk.

Other relevant weapons laws include 705 ILCS 405/5-407, 720 ILCS 5/24-9; 725 ILCS 5/110-4, 5/110-10 (firearms in schools); 720 ILCS 5/24-1.2, 5/24-3 (discharge of firearm near school); 705 ILCS 405/5-130, 405/5-805 (minor 15 years or older who commits aggravated battery with a firearm at school is tried as an adult).

⁶ See e.g., 720 ILCS 5/2-19.5, 5/16-1, 5/18-1, 5/19-1, 21-1, and 5/21-1.3 (property damage penalties).

⁷ See e.g., 720 ILCS 5/21-1.01, 21-1.3.

⁸ See e.g., 720 ILCS 5/11-9.3 (presence within school zone by child sex offenders prohibited), 5/11-14(~~prostitution~~), 5/11-15(~~repealed~~), and 5/11-18(~~patronizing a prostitute~~); 720 ILCS 5/21-11 (soliciting students to commit illegal act).

⁹ Required by 105 ILCS 5/10-20.5b and 410 ILCS 82/1 *et seq.* Federal law prohibits smoking inside schools (20 U.S.C. §6081); districts failing to comply with the federal no-smoking ban risk a civil penalty of up to \$1000 per violation per day.

¹⁰ See e.g., 720 ILCS 570/407 (delivery of controlled substance on or within 1000 feet of a school). See also the discussion in f/n 2 of policy 5:50, *Drug- and Alcohol-Free Workplace; Tobacco Prohibition*; this statement must be consistent with employee working conditions.

¹¹ To legally use medical cannabis, an individual must first become a *registered qualifying patient*. The use of cannabis by a *registered qualifying patient* is permitted only in accordance with the Compassionate Use of Medical Cannabis Pilot Program (Medical Cannabis Act) (410 ILCS 130/, added by P.A. 98-122 (eff. 1-1-14). There are many situations in which no one, even a *registered qualifying patient*, may possess or use cannabis, including (a) in a school bus, (b) on the grounds of any preschool or primary or secondary school, or (c) in close physical proximity to anyone under the age of 18 years of age (410 ILCS 130/30(a)(2), (3), & (4), added by P.A. 98-122 (eff. 1-1-14).

10. Impede, delay, disrupt, or otherwise interfere with any school activity or function (including using cellular phones in a disruptive manner). **12**
11. Enter upon any portion of school premises at any time for purposes other than those that are lawful and authorized by the Board.
12. Operate a motor vehicle: (a) in a risky manner, (b) in excess of 20 miles per hour, or (c) in violation of an authorized District employee's directive. **13**
13. Engage in any risky behavior, including roller-blading, roller-skating, or skateboarding. **14**
14. Violate other District policies or regulations, or a directive from an authorized security officer or District employee.
15. Engage in any conduct that interferes with, disrupts, or adversely affects the District or a School function.

Convicted Child Sex Offender 15

State law prohibits a child sex offender from being present on school property or loitering within 500 feet of school property when persons under the age of 18 are present, unless the offender is:

1. A parent/guardian of a student attending the school and has notified the Building Principal of his or her presence at the school for the purpose of: (i) attending a conference at the school with school personnel to discuss the progress of his or her child academically or socially, (ii) participating in child review conferences in which evaluation and placement decisions may be made with respect to his or her child regarding special education services, or (iii) attending conferences to discuss other student issues concerning his or her child such as retention and promotion; or
2. Has permission to be present from the Board, Superintendent, or Superintendent's designee. If permission is granted, the Superintendent or Board President shall provide the details of the offender's upcoming visit to the Building Principal.

In all cases, the Superintendent, or designee who is a certified employee, shall supervise a child sex offender whenever the offender is in a child's vicinity.

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

12 See e.g., 720 ILCS 5/21.2-1 *et seq.* (interference with a public institution of education).

13 See e.g., 625 ILCS 5/11-605, amended by P.A. 99-212, eff. 1/1/16, special speed limit zones. 625 ILCS 5/12-610.1(e), prohibits wireless telephone use while operating a motor vehicle on a roadway in a school speed zone except for emergency purposes.

14 The pivotal question in a negligence case is whether the defendant acted reasonably. A ban on roller-blading demonstrates that the district took reasonable steps to reduce the risk of injury.

15 720 ILCS 5/11-9.3. The statute assigns the child sex offender the "duty to remain under the direct supervision of a school official." In order to ensure this happens and to protect students, the sample policy requires the superintendent, or designee who is a certified employee, to supervise a child sex offender whenever the offender is in a child's vicinity. See also the Sex Offender Community Notification Law (730 ILCS 152/101 *et seq.*); Child Murderer and Violent Offender Against Youth Community Notification Law (730 ILCS 154/75-105); policy 4:170, *Safety*; and administrative procedure 4:175-AP1, *Criminal Offender Notification Laws; Screening*.

Exclusive Bargaining Representative Agent 16

Authorized agents of an exclusive bargaining representative, upon notifying the Building Principal's office, may meet with a school employee (or group of employees) in the school building during duty-free times of such employees.

Enforcement

Any staff member may request identification from any person on school property; refusal to provide such information is a criminal act. **17** The Building Principal or designee shall seek the immediate removal of any person who refuses to provide requested identification.

Any person who engages in conduct prohibited by this policy may be ejected from school property. The person is also subject to being denied admission to school events or meetings for up to one calendar year. **18**

Procedures to Deny Future Admission to School Events or Meetings

Before any person may be denied admission to school events or meetings as provided in this policy, the person has a right to a hearing before the Board. The Superintendent may refuse the person admission pending such hearing. The Superintendent or designee must provide the person with a hearing notice, delivered or sent by certified mail with return receipt requested, at least 10-ten days before the Board hearing date. The hearing notice must contain: **19**

1. The date, time, and place of the Board hearing;
2. A description of the prohibited conduct;
3. The proposed time period that admission to school events will be denied; and
4. Instructions on how to waive a hearing. **20**

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

16 105 ILCS 5/24-25. Omit this section if it is covered in a collective bargaining agreement. Duty-free time is used to provide a district with discretion about whether preparation time, etc. may be used.

Consult the board attorney about this subhead. It is an item 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. Amend the language to reflect what is recommended by the board attorney.

17 105 ILCS 5/24-24 and 5/24-25.

18 See Nuding v. Cerro Gordo Community Unit School Dist., 730 N.E.2d 96 (Ill.App.4, 2000)(board was authorized to ban parent from attending all school events and extracurricular activities by 105 ILCS 5/24-24; the ban was based on the parent's exposing a toy gun and a pocketknife at a board meeting); Jordan ex rel. Edwards v. O'Fallon Tp. High School Dist., 706 N.E.2d 137 (Ill.App.5, 1999)(105 ILCS 5/24-24 did not give a high school athlete the right, under the due process clause, to a notice and hearing before he could be suspended from participating in interscholastic athletics; the statute expands the schools' authority to ban people from attending school events for breaching conduct and sportsmanship code).

19 Id. If a violator is a student, the hearing should be held in a closed meeting (5 ILCS 120/2). If, however, the violator is not a student, the hearing must be held in an open session.

20 The hearing requirement is for the violator's benefit and, consequently, the violator should be able to waive it.

LEGAL REF.: Nuding v. Cerro Gordo Community Unit School Dist., 730 N.E.2d 96 (Ill.App.4, 2000).
Pro-Children Act of 1994, 20 U.S.C. §7181 et seq.
105 ILCS 5/10-20.5b, 5/24-24, and 5/24-25.
410 ILCS 130/, Compassionate Use of Medical Cannabis Pilot Program.
430 ILCS 66/, Firearm Concealed Carry Act.
720 ILCS 5/11-9.3.

CROSS REF.: 4:170 (Safety), 5:50 (Drug- and Alcohol-Free Workplace; Tobacco Prohibition), 6:120 (Education of Children with Disabilities), 6:250 (Community Resource Persons and Volunteers), 7:190 (Student [DisciplineBehavior](#)), 8:20 (Community Use of School Facilities)

Community Relations

Accommodating Individuals with Disabilities 1

Individuals with disabilities shall be provided an opportunity to participate in all school-sponsored services, programs, or activities and will not be subject to illegal discrimination.² When appropriate, the District may provide to persons with disabilities aids, benefits, or services that are separate or different from, but as effective as, those provided to others.³

The District will provide auxiliary aids and services when necessary to afford individuals with disabilities equal opportunity to participate in or enjoy the benefits of a service, program, or activity.⁴

Each service, program, or activity operated in existing facilities shall be readily accessible to, and useable by, individuals with disabilities. New construction and alterations to facilities existing before January 26, 1992, will be accessible when viewed in their entirety.⁵

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 The Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. §§12101 *et seq.* The ADA covers all state and local governments, including those that receive no federal financial assistance. Title II of the ADA specifically contains accessibility requirements (42 U.S.C. §§12131 *et seq.*). Its nondiscrimination provision states: "[s]ubject to the provisions of this subchapter, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." [42 U.S.C. §§12132](#).

The Department of Justice, through its Civil Rights Division, is the key agency responsible for enforcing Title II. The regulations implementing Title II are found at 28 C.F.R. Part 35. For a comprehensive compliance toolkit, see: www.ada.gov/pcatoolkit/chap1toolkit.htm. This policy contains only the basic elements of the ADA's requirements.

The ADA Amendments Act (ADAAA) significantly changed the ADA's definition of disability (42 U.S.C. §12102). It did not, however, amend any provision in Title II regarding accessibility requirements. Consult the board attorney regarding the ADAAA's impact, if any, on the district's Title II accessibility obligations.

The Ill. Environmental Barriers Act (410 ILCS 25/) and the Ill. Accessibility Code (71 Ill.Admin.Code Part 400) ensure that "all applicable buildings and facilities in the State of Illinois, are so designed, constructed, and/or altered to assure the safety and welfare of all members of society and to be readily accessible to, and useable by, environmentally limited persons," (71 Ill.Admin.Code §400.110). Note: The Ill. Environmental Barriers Act, as amended by P.A. 99-582, eff. 1-1-17, deleted the term "environmentally limited person," which until then had been defined in 410 ILCS 25/3 as "a person with a disability or condition who is restricted in the use of the built environment." Press boxes that "are in bleachers that have points of entry at only one level, and the aggregate area of the press box is no more than 500 square feet" do not have to comply with the Accessibility Code (105 ILCS 5/10-20. 5146, amended by P.A. 97-355). The Ill. High School Assoc. refers to a *press box* as a "space ... set aside to provide for news media representatives covering the [event], whether they be from newspapers, radio stations, commercial television stations and/or cable television stations."

³ 28 C.F.R. §35.130(b). If separate services or programs are provided, a district may not deny the individual an opportunity to participate in the regular programming unless the accommodation would alter the fundamental nature of the program (28 C.F.R. §35.130(b)).

⁴ Districts must provide auxiliary aids and services to ensure that no disabled individual is excluded or treated differently than other individuals, unless the district can show that taking such steps would fundamentally alter the nature of the function, program, or meeting or would be an undue burden (28 C.F.R. §§35.160 and 35.164). The term "auxiliary aids and services" includes qualified interpreters, assistive listening devices, note takers, and written materials for individuals with hearing impairments; for individuals with vision impairments, the term includes qualified readers, taped texts, and Brailled or large print materials ([28 C.F.R. §35.104](#)).

⁵ This requirement applies to construction commenced after January 26, 1992 (28 C.F.R. §35.151). Compliance methods include: equipment redesign, reassignment of services to accessible buildings, assignment of aids to beneficiaries, home visits, delivery of services at alternate accessible sites, alteration of existing facilities and construction of new facilities (a district is not required to make structural changes in existing facilities where other methods are effective in achieving compliance), and use of accessible rolling stock or other conveyances (28 C.F.R. §35.150).

Comment [KAS1]: Policy, Legal References, and footnotes are updated as follows:
 1. An outdated responsibility of the Title II Coordinator is addressed.
 2. A footnote is supplemented to reflect the Environmental Barriers Act by P.A. 99-582, eff. 1-1-17.
 3. Other legal citations in the footnotes are amended.

The Superintendent or designee is designated the Title II Coordinator and shall:⁶

1. Oversee the District's compliance efforts, recommend necessary modifications to the School Board, and maintain the District's final Title II self-evaluation document, [update it to the extent necessary](#), and keep it available for public inspection for at least 3 years after its completion date.⁷
2. Institute plans to make information regarding Title II's protection available to any interested party.⁸

Individuals with disabilities should notify the Superintendent or Building Principal if they have a disability that will require special assistance or services and, if so, what services are required.⁹ This notification should occur as far in advance as possible of the school-sponsored function, program, or meeting.

Individuals with disabilities may allege a violation of this policy or federal law by reporting it to the Superintendent or designated Title II Coordinator, or by filing a grievance under the Uniform Grievance Procedure.¹⁰

LEGAL REF.: Americans with Disabilities Act, 42 U.S.C. §§12101 et seq. and 12131 et seq.; 28 C.F.R. Part 35.
Rehabilitation Act of 1973 §104, 29 U.S.C. §794 (2006).
105 ILCS 5/10-20.4651.
410 ILCS 25/, Environmental Barriers Act.
71 Ill.Admin.Code Part 400, Illinois Accessibility Code.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 4:150 (Facility Management and Expansion Programs)

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

⁶ Each district having 50 or more full or part-time employees must designate at least one employee to coordinate its efforts to comply with Title II, including complaint investigations (28 C.F.R. §35.107).

⁷ A written evaluation of district services, policies, and practices should have been completed by January 26, 1993. Interested people should have been allowed to submit comments during the evaluation process. The final self-evaluation document must be kept for at least ~~3~~three years, be available for public inspection, and include a list of individuals and organizations consulted, a description of areas examined and any problems identified, and a description of any modifications. The record retention requirement applies to only those districts having 50 or more full or part-time employees. [While January 26, 1996, has passed, this information is kept in the policy as it is an affirmative obligation.](#)

⁸ Each district must make information regarding the ADA's protection available to any interested party (28 C.F.R. §35.106). For example, a simple notice can be included in school newspapers, program or performance announcements, and registration material.

⁹ The superintendent decides the appropriate response on a case-by-case basis.

¹⁰ Adoption of the Uniform Grievance Procedure fulfills the ADA's requirement that each district having 50 or more employees adopt and publish a grievance procedure providing for prompt and equitable resolution of any complaint.

Comment [KAS1]: Policy is unchanged. A footnote is added in response to 105 ILCS 5/10-22.13a, amended by P.A. 99-890.

Community Relations

Relations with Other Organizations and Agencies

The District shall cooperate with other organizations and agencies, including but not limited to:

- County Health Department
- Law enforcement agencies
- Fire authorities
- Planning authorities
- Zoning authorities ¹
- Illinois Emergency Management Agency (IEMA), local organizations for civil defense, and other appropriate disaster relief organizations concerned with civil defense ²
- Other school districts

Comment [KAS2]: A footnote is added to cite the amendments to the School Code born from *Gruba* a/k/a "The Bleachers Case."

CROSS REF.: 1:20 (District Organization, Operations, and Cooperative Agreements), 4:170 (Safety), 5:90 (Abused and Neglected Child Reporting), 7:150 (Agency and Police Interviews)

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

¹ 105 ILCS 5/10-22.13a, amended by P.A. 99-890 and *Gruba v. Community High School District 155*, 2015 IL 118332 (9-24-2015) 40 N.E.3d 1, (Ill., 2015) (holding school districts are subject to, and school boards must comply with, local government zoning and storm water restrictions, i.e., a city's zoning powers). See also 55 ILCS 5/5-12021, added by P.A. 99-890; 60 ILCS 1/110-70, amended by P.A. 99-890; and 65 ILCS 5/11-13-27, added by P.A. 99-890 (outlining specific zoning provisions related to public schools, including requirements for counties, townships, and municipalities to refrain from regulating educational activities and make reasonable efforts to streamline zoning application and review process for public school districts, along with reducing fees and costs).

² 105 ILCS 5/10-22.35.