

Moline, Illinois

Notice of Meeting

Members of the Board of Education

Ladies and Gentlemen:

You are hereby notified that there will be a Regular Meeting of the Board of Education, School District No. 40, immediately following the Committee of the Whole Meeting on Monday, January 24, 2022, at the Coolidge Professional Development Room, 3430 Avenue of the Cities, Moline, Illinois 61265.

Kristin Sanders
Secretary, Board of Education

AGENDA AND RECOMMENDATIONS

Board of Education
Moline, Illinois
Monday, January 24, 2022

The public is invited to join the January 24, 2022, Board of Education meeting virtually via Zoom.

Join from a PC, Mac, iPad, iPhone or Android device:

Please click this URL to join.

<https://us02web.zoom.us/j/87050349843?pwd=T2R3S3NoaDQxbGVzaDFBYXJpQzZkQT09>
Passcode: 130928

Or One tap mobile:

+13126266799,,87050349843# US (Chicago)

Or join by phone:

Dial(for higher quality, dial a number based on your current location):

US: +1 312 626 6799 or +1 929 205 6099 or

Webinar ID: 870 5034 9843

Public comments may be made in person or e-mailed to the Board Secretary, Kristin Sanders, at ksanders@molineschools.org no later than 4:30 p.m. on Monday, January 24, 2022, with "Public Comment" in the subject line.

Doors will open at 5:45 p.m. for the public. Per the Illinois Department of Public Health, individuals are required to wear a face covering should they choose to attend the meeting in person.

1. Opening of Meeting - Roll Call

2. Recitation of Pledge of Allegiance

3. Approval of Minutes

A. Minutes of the Open Session of the Regular Board of Education meeting of
January 10, 2022

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The meeting of the Board of Education was called to order by Board President Erin Waldron-Smith at 7:06 p.m. at the Coolidge Professional Development Room, 3430 Avenue of the Cities, Moline, IL 61265.

Roll Call

Members Present: Audrey Adamson, Justin Anderson, Chet DeSmet, Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert, Erin Waldron-Smith

Absent: None

The Board of Education Members led those in attendance in reciting the Pledge of Allegiance.

Erin read through the Board norms and each Board member has a laminated copy of these norms.

APPROVAL OF BOARD OF EDUCATION MINUTES

The minutes of the Open Session of the Regular Board of Education meeting of December 13, 2021 were presented for approval as presented.

A motion was made by Chet DeSmet seconded by Andrew Waeyaert, all in favor, that the minutes of the Open and Closed Sessions of the Regular Board of Education meeting of December 13, 2021 be approved as presented and placed on file.

COMMUNICATIONS, PUBLIC COMMENT AND PARTICIPATION

There was no public comment or participation.

CONSENT AGENDA

The Board of Education considered Consent Agenda Items A through M as presented.

Recommended Motion: that the Board of Education approve the actions contained in Consent Agenda Items A–M as presented:

A. Employment – Certified Staff

- 1) the temporary employment of the following named certified staff member for the 2021-2022 school year with wages in accordance with district schedules:

Hofmann, Jenifer

School Counselor, High School

B.A. Degree, Illinois State University

To teach on a temporary contract basis

Thirteen years previous experience in Illinois

- 2) the temporary employment of the following named certified substitute teachers for the 2021-2022 school year with wages in accordance with district schedules:

Haynes, Trena
 Kephart, Riley
 Mensah, Tara
 Reich, Charlotte
 Schlabowske, Haley
 Schluensen, Lauren
 Stoll, Marina
 VandeMoortel, Mark
 VanVooren, William

B. Salary Reclassification – Certified Staff

a change in salary classification for the following Certified Staff effective for the second semester of the 2021-2022 school year:

Carlin, Sarah from B.A. to B.A. +15
 Gascoigne, Krystle from M.A. to M.A. +30
 Iams, Hannah from B.A. to B.A. +15
 Killam, Christa from M.A. to M.A. +30
 Kovacic, Jamie from M.A. to M.A. +30
 Lance, Kaylee from M.A. to M.A. +30
 Landeros, Jasmin from M.A. to M.A. +30
 Masias, Laura from M.A. to M.A. +30
 Pauley, Amanda from M.A. to M.A. +30
 Rasche, Adam from M.A. to M.A. +30
 Ruettiger, Jacob from M.A. to M.A. +30
 Santamour, Tracy from M.A. to M.A. +30
 Timerman, Dawn from M.A. to M.A. +30
 Watts, Christine from M.A. to M.A. +30

C. Appointment to Differential Assignment – Certified Staff

the appointment of the following named certified staff members to differential assignments:

<u>Name</u>	<u>Position</u>	<u>Location</u>	<u>Effective Date</u>
Ryser, Alex	Assistant Director Spring Musical	High School	01/10/22
Taylor, Kyle	Drama Director’s Assistant Winter Play	High School	12/31/21

D. Transfer/Reassignment – Certified Staff

the transfer of Michele Pittington from the Principal position at Franklin Elementary to a teaching position, effective for the 2022-2023 school year.

E. Employment – Educational Support Personnel

- 1) the employment of the following named educational support personnel for the 2021-2022 school year with wages in accordance with district schedules:

<u>Name</u>	<u>Position</u>	<u>Location</u>	<u>Effective Date</u>
Wingerter, Renee	Hall Security	High School	12/16/21

- 2) the temporary employment of the following named educational support personnel for the 2021-2022 school year with wages in accordance with district schedules:

<u>Name</u>	<u>Position</u>	<u>Location</u>	<u>Effective Date</u>
Kuehn, Marcie	Flexible Floater Custodian	Elementary Buildings	01/03/22
Naab, Katie	Parent Coordinator	Logan	01/04/22
Wales, Cassie	Classroom Paraprofessional	Hamilton	11/29/21
Wilson, Tara	Parent Mentor Coordinator	Washington	11/09/21

- 3) the temporary employment of the following named substitute educational support personnel for the 2021-2022 school year with wages in accordance with district schedules:

<u>Name</u>	<u>Position</u>
Haskins, Zachery	Custodian
Johnson, Alicia	Health Professional (RN)

- 4) the temporary employment of the following named non-staff members as interpreters for the remainder of the 2021-2022 school year with wages in accordance with district schedules:

Chelihi, Mohamed Larbi

F. Approval of Family Medical Leave Act – Educational Support Personnel

that the Board of Education grant approval of a Family and Medical Leave for the following educational support personnel:

<u>Name</u>	<u>Position</u>	<u>Location</u>	<u>Effective Date</u>
Lyman, Cheryl	Special Ed Para	Wilson	Beginning 01/03/22 and lasting until approximately 02/17/22
Mayberry, Kevin	Custodian	MHSCC/Deere	Beginning 12/08/21 and lasting for approximately 60 days

G. Resignation/Termination – Educational Support Personnel

the resignation/termination of the following named Educational Support Personnel:

<u>Name</u>	<u>Position</u>	<u>Location</u>	<u>Effective Date</u>
Cooper, Katherine	1:1 Special Ed Para	Hamilton	12/25/21
Smith, Stacey	Library Paraprofessional	Hamilton/Franklin	02/01/22

H. Payments for Board Approval

approval of payments:

Fund 1 Educational	1,480,167.74
Fund 2 Operations & Maintenance	207,757.38
Fund 3 Debt Service	582,625.08
Fund 4 Transportation	90,892.44
Fund 5 Retirement	223,456.80
Fund 6 Capital Projects	23,722.64
Fund 7 Working Cash	0.00
Fund 8 Tort Fund	47,759.59
Fund 9 Life Safety Code	37,871.61
Fund 10 Group Insurance	846,839.73
Fund 11 Student Activity	<u>15,074.26</u>
TOTAL	3,679,874.55

See Exhibit A.

I. Freedom of Information Act Requests

One Freedom of Information Act Request was received by Chicagolandconstruction.com requesting Bid Results/Tabulations or Award for the 12/07/2021 Moline-Coal Valley School District No. 40 - 2021 Moline High School A-Wing Asbestos Abatement (Rock Island County). The District has responded to this request.

J. Acceptance of Gift

- 1) A donation in the amount of \$2,000 from Deloros Young to be used for the therapy dog program in the Moline-Coal Valley School District.
- 2) A donation in the amount of \$550 from Lady Maroons Soccer to the Girls Soccer program at Moline High School.
- 3) A donation in the amount of \$2,020.90 from MHS Class of 1957 to Moline High School.

K. Facility Usage Request Recommended for Approval Subject to Compliance with Board of Education Policy 8:20

- 1) Moline High School, Wilson Middle School, and John Deere Middle School baseball/softball diamonds and fields for baseball practices and games for the 2022 season by the Moline Little League Baseball. Compensation to be received only for custodial services required as a result of their program.

- 2) Coolidge Gymnasium on Saturday, February 26, 2022 from 12:00 p.m. until 4:00 p.m. and Saturday March 5, 2022 from 12:00 p.m. until 4:00 p.m. by the Moline Little League Baseball for baseball tryouts. Compensation to be received only for custodial services required as a result of their program.
- 3) John Deere Middle School Auditorium on Thursday, April 14, 2022 from 6:00 p.m. until 8:00 p.m. for the 2022 season kickoff for Moline Little League Baseball. Compensation to be received only for custodial services required as a result of their program.
- 4) Moline High School, John Deere Middle School, various elementary schools, and Jefferson Early Childhood Center school baseball/softball diamonds and fields for softball practices and games for the 2022 season by the Moline Little League Softball. Compensation to be received only for custodial services required as a result of their program.
- 5) Willard Elementary School gymnasium from January 13, 2022 through February 24, 2022 on Thursdays from 5:45 p.m. until 7:00 p.m. for basketball practices by the Two Rivers YMCA. Compensation to be received only for custodial services required as a result of their program.
- 6) Wilson Middle School gymnasium from January 21, 2022 through February 26, 2022 on Friday evenings for basketball games by the Two Rivers YMCA from 5:30 p.m. until 9:30 p.m. Compensation to be received only for custodial services required as a result of their program.
- 7) Wilson Middle School gymnasium from January 21, 2022 through February 26, 2022 on Saturday mornings from 8:30 a.m. until 11:30 a.m. for basketball games by the Two Rivers YMCA. Compensation to be received in the amount of \$52 per hour.

L. Approval to Purchase

that the Board of Education approve the purchase of wireless hardware refreshes to CDWG, Vernon Hills, Illinois (the lowest bidder), for a total project cost of \$139,829.56 (approximately \$30,000 after discount). **See Exhibit B.**

M. Award of Bid

that the Board of Education award the bid, as identified, for Jane Addams, Butterworth, and Logan Elementary Schools for air quality improvement, to the lowest qualified bidder for the amount of \$5,480,586, as presented. **See Exhibit C.**

A motion was made by Chet DeSmet, seconded by Andrew Waeyaert, that the Board of Education accept the items contained in Consent Agenda Items A through M as presented.

Ayes: Justin Anderson, Chet DeSmet, Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson, Erin Waldron-Smith

Nays: None

APPROVAL OF RESOLUTION FOR THE 2021 TAX ABATEMENT

A motion was made by Andrew Waeyaert, seconded by Justin Anderson, that the Board of Education approve the resolution abating all of the property taxes heretofore levied for the year 2021 to pay debt service on the General Obligations School Bonds (Alternate Revenue Source), Series 2018 of Community Unit School District Number 40, Rock Island County, Illinois. **See Exhibit D.**

Ayes: Chet DeSmet, Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson,
Justin Anderson, Erin Waldron-Smith
Nays: None

APPROVAL OF A SPECIAL EDUCATION TEACHER

A motion was made by Kate Schaefer, seconded by Maria S. Trigueros, that the Board of Education approve one FTE special education teacher, to be shared by Bicentennial Elementary School and Seton Catholic School. **See Exhibit E.**

Ayes: Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson, Justin Anderson,
Chet DeSmet, Erin Waldron-Smith
Nays: None

APPROVAL OF SUBSTITUTE TEACHER INCENTIVES

A motion was made by Kate Schaefer, seconded by Andrew Waeyaert, that the Board of Education approve the substitute teacher incentive for the remainder of the 2021-2022 school year. **See Exhibit F.**

Ayes: Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson, Justin Anderson, Chet DeSmet,
Kate Schaefer, Erin Waldron-Smith
Nays: None

APPROVAL OF COMPENSATION STRUCTURE FOR PARAPROFESSIONALS WITH A SUBSTITUTE LICENCE

A motion was made by Audrey Adamson, seconded by Chet DeSmet, that the Board of Education approve the paraprofessional hourly wage, or the daily substitute rate, for those employees willing to substitute teach on an emergency basis. **See Exhibit G.**

Ayes: Andrew Waeyaert, Audrey Adamson, Justin Anderson, Chet DeSmet, Kate Schaefer,
Maria S. Trigueros, Erin Waldron-Smith
Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICIES FOR SECTION 4 OPERATIONAL SERVICES

A revised motion was made by Andrew Waeyaert, seconded by Kate Schaefer, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education Policies for Operational Services Sections 4:80 Accounting and Audits, 4:110 Transportation, 4:120 Food Services, and 4:150 Facility Management and Building Programs. **See Exhibit H.**

Ayes: Audrey Adamson, Justin Anderson, Chet DeSmet, Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert, Erin Waldron-Smith

Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 4:60, PURCHASES AND CONTRACTS

A revised motion was made by Kate Schaefer, seconded by Andrew Waeyaert, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education Policies for Operational Services sections 4:60 – Purchases and Contracts. **See Exhibit I.**

Ayes: Justin Anderson, Chet DeSmet, Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson, Erin Waldron-Smith

Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 4:160, ENVIRONMENTAL QUALITY OF BUILDINGS AND GROUNDS

A revised motion was made by Andrew Waeyaert, seconded by Chet DeSmet, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education Policies for Operational Services Sections 4:160 – Environmental Quality of Buildings and Grounds. **See Exhibit J.**

Ayes: Chet DeSmet, Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson, Justin Anderson, Erin Waldron-Smith

Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 4:165, AWARENESS AND PREVENTION OF CHILD SEXUAL ABUSE AND GROOMING BEHAVIORS

A revised motion was made by Chet DeSmet, seconded by Kate Schaefer, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education Policies for Operational Services Sections 4:165, Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors. **See Exhibit K.**

Ayes: Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson, Justin Anderson, Chet DeSmet, Erin Waldron-Smith

Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 4:170, SAFETY

A revised motion was made by Chet DeSmet seconded by Andrew Waeyaert, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education Policies for Operational Services Sections 4:170, Safety. **See Exhibit L.**

Ayes: Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson, Justin Anderson, Chet DeSmet,
Kate Schaefer, Erin Waldron-Smith
Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 4:175, CONVICTED CHILD SEX OFFENDER; SCREENING; NOTIFICATIONS

A revised motion was made by Maria S. Trigueros, seconded by Andrew Waeyaert, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education Policies for Operational Services Sections 4:175, Convicted Child Sex Offender; Screening; Notifications. **See Exhibit M.**

Ayes: Andrew Waeyaert, Audrey Adamson, Justin Anderson, Chet DeSmet, Kate Schaefer,
Maria S. Trigueros, Erin Waldron-Smith
Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 5:10 – EQUAL EMPLOYMENT OPPORTUNITY AND MINORITY RECRUITMENT, 5:20 – WORKPLACE HARASSMENT PROHIBITED, 5:30 – HIRING PROCESS AND CRITERIA, AND 5:185 – FAMILY AND MEDICAL LEAVE

A revised motion was made by Audrey Adamson, seconded by Chet DeSmet, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education policies 5:10 – Equal Employment Opportunity and Minority Recruitment, 5:20 – Workplace Harassment Prohibited, 5:30 – Hiring Process and Criteria, and 5:185 – Family and Medical Leave, as presented. **See Exhibit N.**

Ayes: Audrey Adamson, Justin Anderson, Chet DeSmet, Kate Schaefer,
Maria S. Trigueros, Andrew Waeyaert, Erin Waldron-Smith
Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 5:50 – DRUG AND ALCOHOL-FREE WORKPLACE; E-CIGARETTE, TOBACCO, AND CANNABIS PROHIBITION

A revised motion was made by Andrew Waeyaert, seconded by Kate Schaefer, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education policies 5:50 – Drug-and Alcohol-Free Workplace; E-Cigarette, Tobacco, and Cannabis Prohibition, as presented. **See Exhibit O.**

Ayes: Justin Anderson, Chet DeSmet, Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert,
Audrey Adamson, Erin Waldron-Smith
Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 5:90 – ABUSED AND NEGLECTED CHILD REPORTING

A revised motion was made by Kate Schaefer, seconded by Andrew Waeyaert, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education Policy for Section 5:90 – Abused and Neglected Child Reporting, as presented. **See Exhibit P.**

Ayes: Chet DeSmet, Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson, Justin Anderson, Erin Waldron-Smith

Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 5:100 – STAFF DEVELOPMENT PROGRAM

A revised motion was made by Chet DeSmet, seconded by Andrew Waeyaert, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education Policy for Section 5:100 – Staff Development Program, as presented. **See Exhibit Q.**

Ayes: Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson, Justin Anderson, Chet DeSmet, Erin Waldron-Smith

Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 5:120 – EMPLOYEE ETHICS; CONDUCT; AND CONFLICT OF INTEREST

A revised motion was made by Andrew Waeyaert, seconded by Kate Schaefer, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education Policy for Section 5:120 – Employee Ethics; Conduct; and Conflict of Interest, as presented. **See Exhibit R.**

Ayes: Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson, Justin Anderson, Chet DeSmet, Kate Schaefer, Erin Waldron-Smith

Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 5:125 – PERSONAL TECHNOLOGY AND SOCIAL MEDIA; USAGE AND CONDUCT

A revised motion was made by Maria S. Trigueros, seconded by Chet DeSmet, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education Policy for Section 5:125 – Personal Technology and Social Media; Usage and Conduct, as presented. **See Exhibit S.**

Ayes: Andrew Waeyaert, Audrey Adamson, Justin Anderson, Chet DeSmet, Kate Schaefer, Maria S. Trigueros, Erin Waldron-Smith

Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 5:150 – PERSONNEL RECORDS

A revised motion was made by Audrey Adamson, seconded by Chet DeSmet, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education Policy for Section 5:150 – Personnel Records, as presented. **See Exhibit T.**

Ayes: Audrey Adamson, Justin Anderson, Chet DeSmet, Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert, Erin Waldron-Smith

Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 5:200 – TERMS AND CONDITIONS OF EMPLOYMENT AND DISMISSAL

A revised motion was made by Kate Schaefer, seconded by Andrew Waeyaert, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education Policy for Section 5:200 – Terms and Conditions of Employment and Dismissal, as presented. **See Exhibit U.**

Ayes: Justin Anderson, Chet DeSmet, Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson, Erin Waldron-Smith

Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 5:250 – LEAVES OF ABSENCE

A revised motion was made by Chet DeSmet, seconded by Andrew Waeyaert, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education Policy for Section 5:250 – Leaves of Absence, as presented. **See Exhibit V.**

Ayes: Chet DeSmet, Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson, Justin Anderson, Erin Waldron-Smith

Nays: None

FIRST READING OF REVISED BOARD OF EDUCATION POLICY 5:330 – SICK DAYS, VACATION, HOLIDAYS, AND LEAVES

A revised motion was made by Andrew Waeyaert, seconded by Chet DeSmet, that the Board of Education waive the Second Reading and allow the First Reading to stand for both the First and Second Reading for Board of Education Policy for Section 5:330 – Sick Days, Vacation, Holidays, and Leaves, as presented. **See Exhibit W.**

Ayes: Kate Schaefer, Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson, Justin Anderson, Chet DeSmet, Erin Waldron-Smith

Nays: None

APPROVAL OF CHANGE ORDER NO. 1 – MOLINE HIGH SCHOOL A-WING ABATEMENT (ASPIRE)

A motion was made by Audrey Adamson, seconded by Chet DeSmet, that the Board of Education approve the Change Order for Moline High School A-Wing Abatement (ASPIRE) to M&O Environmental Company, Peoria, Illinois for an increased amount of \$2,400 or a total of \$27,180. **See Exhibit X.**

Dave McDermott, Chief Financial Officer, stated that in the process of taking down the hard lids (a fixed ceiling) in the A Wing at Moline High School, asbestos was found under the ceiling on the east side. When the amount was estimated, asbestos was not accounted for. Unfortunately, there is asbestos under ceiling on east side. Approval of this change order will allow for this area to be completed but a whole new bid will go out and in February and that will be brought to the Board for approval.

Ayes: Maria S. Trigueros, Andrew Waeyaert, Audrey Adamson, Chet DeSmet, Kate Schaefer,
Erin Waldron-Smith
Nays: None
Abstain: Justin Anderson

REPORTS, REQUESTS AND OPEN DISCUSSION

Superintendent’s Report

Dr. Rachel Savage, Superintendent of Schools, stated that Kristin Sanders, Assistant Superintendent for Pupil/Personnel and Special Education Services, has taken lead on student accounts in regards to student COVID tracking, and Todd DeTaeye, Assistant Superintendent for Human Resources, has taken the lead on staff COVID in regards to employee illness tracking. Dr. Savage thanked them for their efforts in tracking COVID across the District in conjunction with the District’s head nurse, Dawn Carnahan.

Dr. Savage noted that the end of first semester is Friday, January 14, and shared that this school year has been no less difficult than last year. Dr. Savage expressed her sincere thanks to teachers, staff, and administrators for pushing on during these difficult times. The District continues to be challenged by the ongoing pandemic and will continue to do all it can to keep the District open and manage outbreaks at the school level as much as possible. Dr. Savage stated that the District is currently waiting for the “green light” from the Illinois State Board of Education (ISBE) to implement the reduced number of quarantine days as put forth by Center for Disease Control (CDC).

A Five Essentials Survey will go out tomorrow, January 11, 2022. All teachers and parents will be able to complete this survey. The final results will be imbedded into school report card.

The Student Intake Center at Allendale is in its second year. Since September 14, 2021, Allendale has enrolled 160 students from nearly every state. This model for families helps to alleviate time spent at the building level registering new students during the busy school day.

Lastly, Dr. Savage shared the District’s mission statement and read it aloud. “The mission of Moline-Coal Valley School District, in partnership with our communities, is to educate individuals by providing superior student-centered educational experiences, which will prepare them to become contributing and productive citizens, responsive to the changing local and global needs.”

Erin Waldron-Smith, Board President, stated that tragically over the holiday break, two dedicated employees from the Moline-Coal Valley School District passed away. Lisa Toalson was employed at Seton Catholic School and Derek Lindauer at John Deere Middle School. Ms. Waldron-Smith expressed the sympathy of the Board to the families, sharing that the Board is deeply appreciative of the work they did and the time they gave to the District.

A motion was made by Maria S. Trigueros, seconded by Andrew Waeyaert, all in favor, that the Board of Education meeting be adjourned. Time: 7:31 p.m.

President

Secretary

4. Communications, Public Comment and Participation

5. Consent Agenda

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Recommended Motion: that the Board of Education approve the actions contained in the Consent Agenda as presented.

5. **Consent Agenda**

Recommended Motion: that the Board of Education approve the actions contained in Consent Agenda Items A–O as presented:

A. **Employment – Certified Staff**

- 1) the temporary employment of the following named certified substitute teachers for the 2021-2022 school year with wages in accordance with district schedules:

Collins, Michael
Henson, Stevie
Miller, Gina

- 2) the temporary employment of the following named Certified Hourly Instructors for the 2021-2022 school year with wages in accordance with district schedules:

<u>Name</u>	<u>Location</u>	<u>Effective Date</u>
Stoll, Marina	Lincoln-Irving	01/06/22

B. **Salary Reclassification – Certified Staff**

a change in salary classification for the following Certified Staff effective for the second semester of the 2021-2022 school year:

Beck, Heather from B.A. to B.A. +15
Brown, Katrina from M.A. to M.A. +30
Fetter, Sarah from M.A. to M.A. +30
Frazier, Rachel from M.A. to M.A. +30
Graf, Amy from M.A. to M.A. +30
Hillier, Caitlin from M.A. to M.A. +30
Knight, Raya from B.A. to B.A. +15
Putnam, Grant from M.A. to M.A. +30
Radosevich, Megan from M.A. to M.A. +30
Schafman, Alina from M.A. to M.A. +30
Teed, Jace from M.A. to M.A. +30
Veto, Jason from M.A. to M.A. +30

C. **Approval of Family Medical Leave Act – Certified Staff**

that the Board of Education grant approval of a Family and Medical Leave for the following certified staff members:

<u>Name</u>	<u>Position</u>	<u>Location</u>	<u>Effective Date</u>
Schroeder, Laurel	Cross Categorical	High School	Beginning approximately 02/22/22 and lasting until approximately 05/24/22

D. Approval of Paid Leave of Absence – Certified Staff

<u>Name</u>	<u>Position</u>	<u>Location</u>	<u>Effective Date</u>
Hernandez, Luz	PreK Instructional Coach	Willard	Beginning 02/01/22 and lasting up to 60 days

E. Appointment to Additional Assignments

the appointment of the following named certified staff members to sixth assignments for the second semester of the 2021-2022 school year at Moline High School:

<u>Name</u>	<u>Position</u>
McCollum, Tim	Social Studies
Peterson, Rebecca	Social Studies
Taylor, Sean	Social Studies
VanVooren, Larry	Social Studies

F. Resignation from Differential Assignment

<u>Name</u>	<u>Position</u>	<u>Location</u>	<u>Effective Date</u>
Forsberg, Brooke	Head Varsity Boys Tennis	High School	12/31/21

G. Resignation for the Purpose of Retirement – Certified Staff

<u>Name</u>	<u>Position</u>	<u>Location</u>	<u>Effective Date</u>
Brasel, Chris	School Psychologist	High School	End of the 2021-2022 school year
Sirek-Jones, Annette	Speech/Language Pathologist	Jefferson	End of the 2021-2022 school year

H. Employment – Educational Support Personnel

- 1) the temporary employment of the following named educational support personnel for the 2021-2022 school year with wages in accordance with district schedules:

<u>Name</u>	<u>Position</u>	<u>Location</u>	<u>Effective Date</u>
Luzano, Kelly	1:1 Special Ed Para	Hamilton	01/18/22
O'Brien, Patrick	Classroom Para	Logan	01/18/22

- 2) the temporary employment of the following named substitute educational support personnel for the 2021-2022 school year with wages in accordance with district schedules:

<u>Name</u>	<u>Position</u>
Ibarra, Valerie	Health Professional (RN)

I. Approval of Family Medical Leave Act – Educational Support Personnel

that the Board of Education grant approval of a Family and Medical Leave for the following educational support personnel:

<u>Name</u>	<u>Position</u>	<u>Location</u>	<u>Effective Date</u>
Valladares, Silvia	Administrative Assistant	High School	Beginning 01/05/22 and lasting for 60 days

J. Resignation/Termination – Educational Support Personnel

the resignation/termination of the following named Educational Support Personnel:

<u>Name</u>	<u>Position</u>	<u>Location</u>	<u>Effective Date</u>
Luzano, Kelly	Special Ed Para	Logan	01/14/22
Moss, Mason	Accompanist	Wilson	01/11/22

K. Payments for Board Approval

approval of payments:

Fund 1 Educational	342,917.97
Fund 2 Operations & Maintenance	134,221.02
Fund 3 Debt Service	0.00
Fund 4 Transportation	80,031.39
Fund 5 Retirement	0.00
Fund 6 Capital Projects	52,727.82
Fund 7 Working Cash	0.00
Fund 8 Tort Fund	44,577.74
Fund 9 Life Safety Code	0.00
Fund 10 Group Insurance	6,125.00
Fund 11 Student Activity	<u>7,002.13</u>
TOTAL	683,958.79

See Attachment No. 1.

L. Freedom of Information Act Requests

- 1) A Freedom of Information Request was received from Sycamore Learning Company requesting directory information for all students attending high school in the Moline-Coal Valley School District. The District has responded to this request.

- 2) A Freedom of Information Request was received from the Illinois Retired Teachers Association requesting the name and email address of any certified staff in the Moline-Coal Valley School District who will be retiring in the 2021-2022 school year. The District has responded to this request.

M. Acceptance of Gift

A donation in the amount of \$500 from Kendall & Susan Schwartz to the Music Department at Wilson Middle School.


N. Facility Usage Request Recommended for Approval Subject to Compliance with Board of Education Policy 8:20

- 1) Wilson Middle School Auditorium on Wednesday, April 13, 2022 from 4:00 p.m. until 8:00 p.m. by the Moline Little League Softball for the 2022 season kickoff. Compensation to be received only for custodial services required as a result of their program in the amount of \$52 per hour. Building rental fees are to be waived.
- 2) Coolidge Gymnasium on Saturday, March 12, 2022 from 9:00 a.m. until 4:00 p.m. by the Moline Little League Softball for softball tryouts. Compensation to be received only for custodial services required as a result of their program in the amount of \$52 per hour. Building rental fees are to be waived.
- 3) Shipley Track at Browning Field on Sunday, September 18, 2022, from 9:00 a.m. until 3:00 p.m. by the American Foundation for Suicide Prevention for an Out of the Darkness Walk for suicide prevention. Compensation to be received only for custodial services required as a result of their program in the amount of \$52 per hour.
- 4) Wharton Field House on Wednesday, April 20, 2022 from 8:00 a.m. until 5:00 p.m. for rose distribution by the Moline Kiwanis Club. Compensation to be received only for custodial services required as a result of their program in the amount of \$52 per hour. Building rental fees are to be waived.

O. Engage Services

- 1) that the Board of Education engage the services of First Educational Resources – Learners First Math Center, Winneconne, Wisconsin, for a cost of \$6,750. **See Attachment No. 2.**
- 2) that the Board of Education engage the services of Legat Architects, Moline, Illinois, for schematic design services for the Moline High School Welding Lab for a cost of \$55,000. **See Attachment No. 3.**

TO: Members of the Board of Education

FROM: Dr. Brian Prybil, Assistant Superintendent for Elementary Teaching and Learning 

DATE: January 20, 2022

SUBJECT: Engage Services – FIRST Educational Resources - Learner FIRST Math Center
Professional Development

Reason for Board Consideration: Board of Education approval is required.

Action Necessary: Approval to award the April 7, 2022, and April 11, 2022, professional development services contract to FIRST Educational Resources - Learner FIRST Math Center.

Facts: The district is committed to implementing the best practices in mathematics instruction such as guided math. In order to support this work and build capacity across buildings and grade levels, the Learner FIRST Math Center will help us provide on-site and in-person support in developing a vision and plan for implementation for professional development of best practices in math instruction. The creation of our vision will include building administrators, instructional coaches, and key classroom teachers led by consultants from Learner FIRST Math Center.

Cost: The total cost for this professional development will be \$6,750 and will be paid for from Federal Title funds.

Recommended Action: That the Board of Education engage the professional development services of FIRST Educational Resources - Learner FIRST Math Center, Winneconne, Wisconsin, for a cost of \$6,750

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

TO: Members of the Board of Education

FROM: Dave McDermott, Chief Financial Officer *DM*
Keith Karstens, Director of Facilities

DATE: January 20, 2022

SUBJECT: Engage Services - Architectural Design Services for MHS Welding Lab

Reason for Board Consideration: Board of Education approval is required.


Action Necessary: Board of Education approval is requested.

Facts: At the May 24, 2021 Board of Education meeting, the Board approved the purchase of welding materials for a contemporary welding course at Moline High School. The next step in the project is to renovate the existing space at Moline High School to enable students to learn more effectively and efficiently in a lab that would be similar to one in the workplace. Therefore, it is the recommendation of the administration that the Board of Education approve Legat Architects for schematic design services for the Moline High School Welding Lab.

Cost: The cost is \$55,000, which will be supported from the Curriculum Budget (Ed Fund)

Recommended Motion: That the Board of Education engage the services of Legat Architects, Moline, Illinois, for schematic design services for the Moline High School Welding Lab for a cost of \$55,000.

Approved for Submission to the Board of Education




Dr. Rachel Savage
Superintendent of Schools

6. First Reading of Revised Board of Education Policies for Section 2 School Board

23

Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policies for School Board Sections 2:105, Ethics and Gifts Ban, and 2:150, Committees. **See Attachment No. 4.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services 

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policies for Section 2, School Board

Reason for Board Consideration: The Board of Education approves updated Board Policy.

Action Necessary: That the Board of Education approve the updated Board Policies.


Facts: In the continuing quest to update the District's Board Policies, attached are a portion of Section 2 with suggested changes based on PRESS recommendations. Administration is requesting the Board accept updates for Section 2, School Board, which are minor in stylistics, footnote or reference changes. Recall the underlined text represents suggested new additions; whereas the ~~strike through~~ text represents suggested deletions.

Based on PRESS recommendation and administration review, it is the recommendation of administration that the Board of Education accept for first reading revised Board of Education Policies for School Board Sections 2:105, Ethics and Gift Ban, and 2:150 Committees.

Cost: None.

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policies for School Board Sections 2:105, Ethics and Gift Ban, and 2:150 Committees.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

School Board

Ethics and Gift Ban 1

Prohibited Political Activity

The following precepts govern political activities being conducted by District employees and School Board members:

1. No employee shall intentionally perform any *political activity* during any *compensated time*, as those terms are defined herein. ²
2. No Board member or employee shall intentionally use any District property or resources in connection with any political activity. ³
3. At no time shall any Board member or employee intentionally require any other Board member or employee to perform any political activity: (a) as part of that Board member's or employee's duties, (b) as a condition of employment, or (c) during any compensated time off, such as, holidays, vacation, or personal time off.
4. No Board member or employee shall be required at any time to participate in any political activity in consideration for that Board member or employee being awarded additional compensation or any benefit, whether in the form of a salary adjustment, bonus, compensatory time off, continued employment or otherwise; nor shall any Board member or employee be awarded additional compensation or any benefit in consideration for his or her participation in any political activity.

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

¹ The State Officials and Employees Ethics Act (SOEEA) (5 ILCS 430/) requires a policy on this subject matter and controls its content. 5 ILCS 430/70-5, amended by P.A. 101-221. This policy contains items on which collective bargaining may be required. Any policy that impacts wages, hours, or terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. This policy concerns an area in which the law is unsettled.

The Ill. Attorney General developed a model ethics ordinance to assist units of local government and school districts. See www.ag.state.il.us/government/ethics_ordinance.html. The model ordinance provides that the local governmental entity will enforce the policy through quasi-criminal proceedings or through hiring an attorney to prosecute violators. These penal enforcement provisions present an obvious difficulty for school districts – the legislature has **not** granted school districts the power to adopt penal ordinances and penalties. This sample policy, while based on the Attorney General's model ordinance, does **not** contain penal provisions and penalties and it does **not** contemplate the hiring of an attorney to prosecute violators.

² In addition to constitutional free speech rights, two State laws must be considered when enforcing the SOEEA. The first law, the Local Governmental Employees Political Rights Act (50 ILCS 135/), prohibits: (1) districts from inhibiting or prohibiting employees in the exercise their political rights, and (2) employees from using their employment to coerce or inhibit others in the free exercise of their political rights and from engaging in political activities while at work. The other law, the Personnel Record Review Act (820 ILCS 40/9), prohibits districts from gathering records about an employee's political activities unless the activities interfere with the performance of work duties or could cause the district financial liability.

³ The Election Interference Prohibition Act prohibits the use of public funds to "urge any elector to vote for or against any candidate or proposition." 10 ILCS 5/9-25.1. Spending within the statutory definition of public funds to disseminate facts to the public is permitted under section 9-25.1 and is not *electioneering*. Consequently, a district should not become a political committee by spending funds to disseminate facts. 10 ILCS 5/9-1.14, legislatively overturning Citizens Organized to Save the Tax Cap v. State Bd. of Elections, Northfield Twp. High Sch. Dist., 392 Ill.App.3d 392 (1st Dist. 2009). Consult the board attorney for advice.

A Board member or employee may engage in any activity that: (1) is otherwise appropriate as part of his or her official duties, or (2) is undertaken by the individual on a voluntary basis that is not prohibited by this policy.

Limitations on Receiving Gifts ⁴

Except as permitted by this policy, no Board member or employee, and no spouse of or immediate family member living with a Board member or employee,⁵ shall intentionally solicit or accept any *gift* from any *prohibited source*, as those terms are defined herein, or that is otherwise prohibited by law or policy. No prohibited source shall intentionally offer or make a gift that violates this policy.

The following are exceptions to the ban on accepting gifts from a prohibited source:

1. Opportunities, benefits, and services that are available on the same conditions as for the general public.
2. Anything for which the Board member or employee, or his or her spouse or immediate family member, pays the fair market value.
3. Any: (a) contribution that is lawfully made under the Election Code, or (b) activities associated with a fundraising event in support of a political organization or candidate.
4. Educational materials and missions.
5. Travel expenses for a meeting to discuss business.
6. A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother,

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

⁴ 5 ILCS 430/10-10 through 10-30 (Gift Ban); 30 ILCS 708/ (Grant Accountability Transparency Act) (GATA); and 2 C.F.R. §200.318(c)(1)(uniform federal procurement standards prohibit board members from soliciting or accepting gratuities, favors, or anything of monetary value from contractor performing work under a contract supported by a federal grant award). GATA adopts the uniform federal rules for State agencies' administration of eligible State and federal grants.

Generally, 2 C.F.R. §200.318(c)(1) prohibits employees, officers, or agents of a school district from participating in the selection, award, or administration of a contract supported by a federal award if they have a real or apparent *conflict of interest*. For more discussion on conflict of interest, see sample policy 2:100, *Board Member Conflict of Interest*. Specifically, 2 C.F.R. §200.318(c)(1) requires school districts to "set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value (standards)," along with "disciplinary actions to be applied for violations (*disciplinary actions*)" without defining *nominal value*.

To avoid confusion and because 2 C.F.R. §200.318(c)(1) provides flexibility to school boards regarding setting *standards* and *disciplinary actions*, sample policy 2:100, *Board Member Conflict of Interest*, refers to this sample policy's subheads: **Limitations on Receiving Gifts** in the Ethics Act at 5 ILCS 430/10-10 – 10-30 (for the federal regulation's *standards*), and **Enforcement** at 5 ILCS 430/50-5 (discussing the specific penalties available under the Ill. Ethics Act for the federal regulation's *disciplinary actions*).

If a board wishes to develop further *standards* and *disciplinary actions* than the Gift Ban section of the SOEEA requires, consult the board attorney.

For further discussion, see the *Grant Accountability and Conflicts of Interest* section in the Ill. Council of School Attorneys' publication, **Answers to FAQs, Conflict of Interest and Incompatible Offices** at: www.iasb.com/law/COI_FAQ.pdf.

⁵ 105 ILCS 5/22-90 (final citation pending), added by P.A. 102-327, bans high school guidance counselors from intentionally soliciting or accepting gifts from a prohibited source, narrowly defined as "any person who is employed by an institution of higher education or is an agent or spouse of or an immediate family member living with a person employed by an institution of higher education." Id. Exceptions exist for certain circumstances, e.g., gifts from a relative or based on a personal friendship. A guidance counselor does not violate this law if he or she promptly takes reasonable action to return the gift to the prohibited source or donates the gift or an amount equal to its value to a tax exempt charity. Id.

stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiancé or fiancée.

7. Anything provided by an individual on the basis of a personal friendship unless the recipient has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the recipient or his or her spouse or immediate family member and not because of the personal friendship. In determining whether a gift is provided on the basis of personal friendship, the recipient shall consider the circumstances under which the gift was offered, such as: (a) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals; (b) whether to the actual knowledge of the recipient the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and (c) whether to the actual knowledge of the recipient the individual who gave the gift also at the same time gave the same or similar gifts to other Board members or employees, or their spouses or immediate family members.
8. Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are: (a) consumed on the premises from which they were purchased or prepared; or (b) catered. *Catered* means food or refreshments that are purchased ready to consume, which are delivered by any means.
9. Food, refreshments, lodging, transportation, and other benefits resulting from outside business or employment activities (or outside activities that are not connected to the official duties of a Board member or employee), if the benefits have not been offered or enhanced because of the official position or employment of the Board member or employee, and are customarily provided to others in similar circumstances.
10. Intra-governmental and inter-governmental gifts. *Intra-governmental gift* means any gift given to a Board member or employee from another Board member or employee, and *inter-governmental gift* means any gift given to a Board member or employee from an officer or employee of another governmental entity.
11. Bequests, inheritances, and other transfers at death.
12. Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

Each of the listed exceptions is mutually exclusive and independent of every other.

A Board member or employee, his or her spouse or an immediate family member living with the Board member or employee, does not violate this policy if the recipient promptly takes reasonable action to return a gift from a prohibited source to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under 26 U.S.C. §501(c)(3).

Enforcement

The Board President and Superintendent shall seek guidance from the Board attorney concerning compliance with and enforcement of this policy and State ethics laws.⁶ The Board may, as necessary or prudent, appoint an Ethics Advisor for this task.

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

⁶ This provision is consistent with sample policy 2:160, *Board Attorney*.

Written complaints alleging a violation of this policy shall be filed with the Superintendent or Board President. If attempts to correct any misunderstanding or problem do not resolve the matter, the Superintendent or Board President shall, after consulting with the Board Attorney, either place the alleged violation on a Board meeting agenda for the Board's disposition or refer the complainant to Board policy 2:260, *Uniform Grievance Procedure*. A Board member who is related, either by blood or by marriage, up to the degree of first cousin, to the person who is the subject of the complaint, shall not participate in any decision-making capacity for the Board. If the Board finds it more likely than not that the allegations in a complaint are true, it shall notify the State's Attorney and/or consider disciplinary action for the employee. ⁷

Definitions ⁸

Unless otherwise stated, all terms used in this policy have the definitions given in the State Officials and Employees Ethics Act, 5 ILCS 430/1-5.

Political activity means:

1. Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.
2. Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.
3. Soliciting, planning the solicitation of, or preparing any document or report regarding anything of value intended as a campaign contribution.
4. Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
5. Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.
6. Assisting at the polls on Election Day on behalf of any political organization or candidate for elective office or for or against any referendum question.
7. Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.

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

⁷ The Ill. Attorney General's model ethics ordinance includes the specific penalties from the Ethics Act. 5 ILCS 430/50-5. Elsewhere the Act states that a "governmental entity may provide in [its] ordinance or resolution ... for penalties similar to those provided in this Act for similar conduct." 5 ILCS 430/70-10. Thus, school boards do not need to enact policy containing criminal sanctions. Rather, as provided in this sample policy, violations can be referred to the State's Attorney.

The Ill. Attorney General's guidance document provides for the unit of local government to use an Ethics Commission to manage complaints. A board that wants to use an Ethics Commission should replace this paragraph, after the first sentence, with the following:

As soon as possible after a complaint is filed, the Superintendent shall appoint a 3-member Ethics Commission. If the Superintendent is the subject of the complaint, the Board President shall perform this duty. Commission members may be any District resident, except that no person shall be appointed who is related, either by blood or by marriage, up to the degree of first cousin, to the person who is the subject of the complaint. If the Commission finds it more likely than not that the allegations in a complaint are true, it shall notify the State's Attorney and/or recommend disciplinary action for the employee.

⁸ The definitions contained in this policy are all from 5 ILCS 430/5-15 with minor adaptations.

8. Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.
9. Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.
10. Preparing or reviewing responses to candidate questionnaires.
11. Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.
12. Campaigning for any elective office or for or against any referendum question.
13. Managing or working on a campaign for elective office or for or against any referendum question.
14. Serving as a delegate, alternate, or proxy to a political party convention.
15. Participating in any recount or challenge to the outcome of any election.

With respect to an employee whose hours are not fixed, *compensated time* includes any period of time when the employee is on premises under the control of the District and any other time when the employee is executing his or her official duties, regardless of location. ⁹

Prohibited source means any person or entity who:

1. Is seeking official action by: (a) a Board member, or (b) an employee, or by the Board member or another employee directing that employee;
2. Does business or seeks to do business with: (a) a Board member, or (b) an employee, or with the Board member or another employee directing that employee;
3. Conducts activities regulated by: (a) a Board member, or (b) an employee or by the Board member or another employee directing that employee;
4. Has an interest that may be substantially affected by the performance or non-performance of the official duties of the Board member or employee;
5. Is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors; or
6. Is an agent of, a spouse of, or an immediate family member living with a prohibited source.

Gift means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of a Board member or employee.

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

⁹ The Ethics Act prohibits employees from engaging in political activities on *compensated time* but does not define the term. *Compensated time* is easy to determine for employees with fixed working hours. Determining *compensated time* for a salaried employee who does not have obligatory hours of attendance is more difficult. For this reason, the term *compensated time* should include both the time when the employee is physically present on district premises as well as any other time when the employee is engaged in official duties.

Complaints of Sexual Harassment Made Against Board Members by Elected Officials ¹⁰

Pursuant to the State Officials and Employees Ethics Act (5 ILCS 430/70-5), members of the Board and other elected officials are encouraged to promptly report claims of sexual harassment by a Board member. Every effort should be made to file such complaints as soon as possible, while facts are known and potential witnesses are available. If the official feels comfortable doing so, he or she should directly inform the individual that the individual's conduct or communication is offensive and must stop.

Board members and elected officials should report claims of sexual harassment against a member of the Board to the Board President or Superintendent. If the report is made to the Superintendent, the Superintendent shall promptly notify the President, or if the President is the subject of the complaint, the Vice President. Reports of sexual harassment will be confidential to the greatest extent practicable. ¹¹

When a complaint of sexual harassment is made against a member of the Board by another Board member or other elected official, the Board President shall appoint a qualified outside investigator who is not a District employee or Board member to conduct an independent review of the allegations. If the allegations concern the President, or the President is a witness or otherwise conflicted, the Vice President shall make the appointment. If the allegations concern both the President and Vice President, and/or they are witnesses or otherwise conflicted, the Board Secretary shall make the appointment. The investigator shall prepare a written report and submit it to the Board. ¹²

If a Board member has engaged in sexual harassment, the matter will be addressed in accordance with the authority of the Board. ¹³

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

¹⁰ Required. Under the SOEEA, by 2-9-20 school districts must, by resolution, amend their sexual harassment policies "to provide for a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit." 5 ILCS 430/70-5, amended by P.A. 101-221. This policy includes both elected and appointed board members to effectuate the intent of the law, to comprehensively address sexual harassment in the workplace, and for consistent treatment. The statute does not address whether the *independent review* must or may be limited to a board member's conduct in his or her official capacity, or if it can extend to a board member's behavior in his or her individual capacity. Consult the board attorney for advice. See sample policy 5:20, Workplace Harassment Prohibited, and its f/ns for information about what types of conduct may rise to the level of unlawful sexual harassment under federal and State laws. This policy only addresses the requirements of the SOEEA; it does not address harassment complaints made by employees or other non-elected individuals against board members. Such complaints may be processed under sample policy 2:260, Uniform Grievance Procedure. See policy 2:260 at f/n 16.

Unlike employees, board members are not legally required to take sexual harassment prevention training; however, it is a best practice. The Ill. Dept. of Human Rights will be offering a free online training module. See sample policy 5:20, Workplace Harassment Prohibited, at f/n 4 for more information.

¹¹ The Open Meetings Act (OMA) does not provide a specific exemption for discussion of complaints against a members of a public body in closed session. 5 ILCS 120/2(c)(1), amended by P.A. 101-459.

¹² 5 ILCS 430/70-5(a), amended by P.A. 101-221, eff. 1-1-20. The law requires governmental units, including school districts, to conduct an *independent review* of allegations of sexual harassment made against an elected official by another elected official; however, that term is not defined. Consult the board attorney about how to investigate such complaints.

For boards that wish to authorize the superintendent to appoint the outside investigator in these cases, substitute "Superintendent" for "Board President" in the first sentence, delete the second and third sentences in the paragraph, and delete the Cross Reference to 2:110, *Qualifications, Term, and Duties of Board Officers*.

¹³ A board's ability to address the harassing behavior of a board member is relatively limited because it does not have the legal authority to remove one of its members. See sample policy 2:60, Board Member Removal from Office, and its footnotes for more information about board member removal. Consult the board attorney when dealing with a claim of sexual harassment by a board member to discuss enforcement options, as well as the accused board member's participation in any decisions regarding the complaint.

The Superintendent will post this policy on the District website and/or make this policy available in the District's administrative office. ¹⁴

LEGAL REF.: 105 ILCS 5/22-90 (final citation pending).
5 ILCS 430/, State Officials and Employees Ethics Act.
10 ILCS 5/9-25.1, Election Interference Prohibition Act.

CROSS REF.: 2:100 (Board Member Conflict of Interest), 2:110 (Qualifications, Term, and Duties of Board Officers), 2:260 (Uniform Grievance Procedure), 4:60 (Purchases and Contracts), 5:120 (Employee Ethics; Conduct; and Conflict of Interest)

DRAFT

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

¹⁴ This paragraph is optional, but it aligns with the intent of P.A. 101-221. See f/n 109, above.

School Board

Committees 1

The School Board may establish committees to assist with the Board's governance function and, in some situations, to comply with State law requirements. These committees are known as Board committees and report directly to the Board. Committee members may include both Board members and non-Board members depending on the committee's purpose. The Board President makes all Board committee appointments unless specifically stated otherwise.² Board committee meetings shall comply with the Open Meetings Act.³ A Board committee may not take final action on behalf of the Board – it may only make 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 in that some committees are required by State law, such as, Parent-Teacher Advisory Committee and Behavioral Interventions Committee. Board committees are *public bodies* for purposes of the Open Meetings Act (OMA) (5 ILCS 120/1.02) and the Freedom of Information Act (FOIA) (5 ILCS 140/2).

A board must appoint or approve a Concussion Oversight Team and charge it with establishing protocols for return-to-play and return-to-learn for students who have suffered a concussion or head injury. Youth Sports Concussion Safety Act, 105 ILCS 5/22-80(d), added by P.A. 99-245 and amended by P.A. 99-486. 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. Section 22-80(d) identifies who must be on each Concussion Oversight Team. 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. See 7-305, *Student Athlete Concussions and Head Injuries*.

² Alternatively, strike the "unless" clause and substitute: "subject to Board approval." Be sure this treatment is consistent with policy 2:110, *Qualifications, Term, and Duties of Board Officers*.

³ OMA includes *committees and subcommittees* in its definition of *public body*. 5 ILCS 120/1.02. According to a binding opinion from the Public Access Counselor, a "committee of a public body is considered to be a separate public body for purposes of compliance with the requirements of OMA." PAO 13-2. This means that board committees must independently fulfill OMA's requirements. For example, a board committee must comply with notice and agenda requirements. Since board committees seldom meet regularly, compliance steps need careful planning. Board committees should plan for an efficient way to "approve the minutes of its open meeting within 30 days after that meeting or at [its] second subsequent regular meeting, whichever is later." 5 ILCS 120/2.06(b). The only exceptions are for: (1) the Performance Educational Review Act (PERA) joint committee (105 ILCS 5/24A-4(b), amended by P.A. 100-768, eff. 1-1-19); (2) the Reduction In Force (RIF) joint committee (105 ILCS 5/24-12(c), amended by P.A. 100-768, eff. 1-1-19); and (3) when a committee is engaged in collective bargaining negotiations, including negotiating team strategy sessions, or grievance arbitrations (115 ILCS 5/18, amended by P.A. 100-760, eff. 1-1-19). Board committees must also review their closed session minutes to determine if they still require confidential treatment or will be made available for public inspection. 5 ILCS 120/2.06(d), amended by P.A. 102-653. Committees that meet regularly, such as standing committees, must conduct this review every six months, or as soon after as is practicable, taking into account the nature and meeting schedule of the committee. Committees that are *ad hoc* in nature must review their closed session minutes six months from the date of the last review of the closed session minutes or at the next scheduled meeting of the committee, whichever is later. *Id.*

Sample policy 2:200, *Types of School Board Meetings*, designates the superintendent, on behalf of each board committee, to receive the mandatory training on OMA compliance required by 5 ILCS 120/1.05(a) and administered by the Ill. Attorney General's Public Access Counselor. See policies 2:200, *Types of School Board Meetings*, and 2:220, *School Board Meeting Procedure*, for meeting requirements and protocol. Every board member must also complete OMA training as required by 5 ILCS 120/1.05(b) and (c).

⁴ Additional committee guidelines may be added, such as:

Committees shall operate under the following guidelines:

- The Board President shall appoint no more than two Board members to serve on a committee.
- The President and the committee members shall establish the committee's meeting dates, time, and place.

Special Board Committees

A special committee may be created for specific purposes or to investigate special issues. A special committee is automatically dissolved after presenting its final report to the Board or at the Board's discretion. ⁵

Standing Board Committees ⁶

A standing committee is created for an indefinite term although its members will fluctuate. Standing committees are:

1. Board Policy Committee.⁷ This committee researches policy issues, and provides information and recommendations to the Board.
2. Parent-Teacher Advisory Committee.⁸ This committee assists in the development of student behavior policy and procedure, and provides information and recommendations to the Board. Its members are parents/guardians and teachers, and may include persons whose expertise or experience is needed. The committee reviews such issues as administering medication in the schools, reciprocal reporting between the School District and local law enforcement agencies regarding criminal offenses committed by students, student discipline, disruptive classroom behavior, school bus safety procedures, and the dissemination of student conduct information.
3. Behavioral Interventions Committee.⁹ This committee develops and monitors procedures for using behavioral interventions in accordance with Board policy 7:230, *Misconduct by Students with Disabilities*, and provides information and recommendations to the Board. At the Board President's discretion, the Parent-Teacher Advisory Committee shall perform the duties assigned to the Behavioral Interventions Committee.

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

- The Superintendent may attend all committee meetings.

⁵ A board may list examples as in the following option:

Examples of special committees include the following: (1) Committee to Evaluate Procurement of Architectural, Engineering, and Land Surveying Services (see 2:170-AP, *Administrative Procedure—Qualification Based Selection*), and (2) Facility Naming Committee (see policy 4:150, *Facility Management and Building Programs*).

⁶ The board may create and list other standing committees, e.g., an audit committee as authorized by 105 ILCS 5/10-22.45. Be sure that the creation of a committee in this policy aligns with the policy concerning the applicable topic. If an audit committee is included here, a board may want to reference it in policy 4:80, *Accounting and Audits*, and vice-versa.

⁷ A board policy committee is optional: its creation is consistent with policy 2:240, *Board Policy Development*.

⁸ 105 ILCS 5/10-20.14 requires all districts to establish and maintain a parent-teacher advisory committee to develop, with the board, policy guidelines on student discipline. The parents on this committee, as well as other non-staff members, may not have access to student records unless the student cannot be identified or prior consent is obtained. 105 ILCS 10/6. The district's parent-teacher advisory committee must also: (1) in cooperation with local law enforcement agencies, develop guidelines for reciprocal reporting of criminal offenses committed by students; and (2) in cooperation with school bus personnel, develop school bus safety procedures. 105 ILCS 5/10-20.14. Completion of the statutory requirements imposed on the Parent-Teacher Advisory Committee, as well as the Behavioral Interventions Committee, should be documented.

⁹ Boards must establish and maintain a behavioral interventions committee to develop procedures that reflect consideration of ISBE's guidelines on the use of behavioral interventions with students with disabilities. 105 ILCS 5/14-8.05(c). An alternative follows:

The Behavioral Interventions Committee, coordinated by the Executive Director of the Special Education Cooperative, develops and monitors procedures for using behavioral interventions in accordance with Board policy 7:230, *Misconduct by Students with Disabilities*. Committee reports and recommendations are made to the Board upon its request.

Nothing in this policy limits the authority of the Superintendent or designee to create and use committees that report to him or her or to other staff members. ¹⁰

LEGAL REF.: 5 ILCS 120/, Open Meetings Act.
105 ILCS 5/10-20.14 and 5/14-8.05.

CROSS REF.: 2:110 (Qualifications, Term, and Duties of Board Officers), 2:200 (Types of School Board Meetings), 2:240 (Board Policy Development), 7:190 (Student Behavior), 7:230 (Misconduct by Students with Disabilities)

DRAFT

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


¹⁰ OMA generally does not apply to *superintendent a/k/a* administrative committees. See University Professionals v. Stukel, 344 Ill.App.3d 856 (1st Dist. 2003)(staff committees are not subject to OMA). The Act will be applicable, however, in some circumstances. For example, a staff committee containing three or more board members will be subject to OMA. 5 ILCS 120/1.02. Consult the board attorney for advice. The following are examples of superintendent committees: Communicable and Chronic Infectious Disease Program Task Force, Communicable and Chronic Infectious Disease Review Team, Employee Drug Abuse Committee, Title I Advisory Committee, Student Support Committee, Food Allergy Management Committee, and Sex Equity Committee.

7. First Reading of Revised Board of Education Policy 2:20 - Powers and Duties of the School Board; Indemnification

35

Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policy for Section 2:20 - Powers and Duties of the School Board; Indemnification, as presented. **See Attachment No. 5.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and Director of Special Education Services 

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policy 2:20 - Powers and Duties of the School Board; Indemnification

Reason for Board Consideration: The Board of Education approves updated Board Policy.

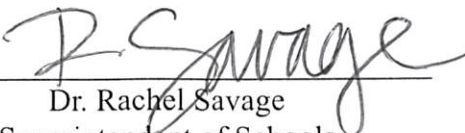
Action Necessary: That the Board of Education approve the updated Board Policy

Facts: In the continuing quest to update the District's Board Policies, attached is Board Policy 2:20 - Powers and Duties of the School Board; Indemnification, which was included as part of the November 2021 PRESS update review. This policy is updated in response to P.A. 102-552, which was part of the General Assembly's focus on resolving Educator Misconduct. The amendment shifts responsibility from the State Superintendent to local boards of education to notify the Teachers Retirement SYstem when it learns a teacher has been convicted of a felony. Notifications are also required of the board to ISBE. Legal References, Cross References and footnotes are also updated to align with these changes.

Cost: None.

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy 2:20 - Powers and Duties of the School Board; Indemnification

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

School Board

Powers and Duties of the School Board; Indemnification

The major powers and duties of the School Board include, but are not limited to:

1. Organizing the Board after each consolidated election by electing officers and establishing its regular meeting schedule and, thereafter, taking action during lawfully called meetings to faithfully fulfill the Board's responsibilities in accordance with State and federal law. ¹
2. Formulating, adopting, and modifying Board policies, at its sole discretion, subject only to mandatory collective bargaining agreements and State and federal law. ²
3. Employing a Superintendent and other personnel, making employment decisions, dismissing personnel, including determining whether an employee has willfully or negligently failed to report an instance of suspected child abuse or neglect as required by 325 ILCS 5/,³ and establishing an equal employment opportunity policy that prohibits unlawful discrimination. ⁴
4. Directing, through policy, the Superintendent, in his or her charge of the District's administration. ⁵
5. Approving the annual budget, tax levies, major expenditures, payment of obligations, annual audit, and other aspects of the District's financial operation; and making available a statement of financial affairs as provided in State law. 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 controls this policy's content. School board powers listed in the School Code are not exclusive, meaning that a board may exercise "all other powers not inconsistent with this Act 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. This policy's intent is to list the *major* statutory powers and duties – not all of them. See also 105 ILCS 5/10-20.5 and 5/10-21.

For power/duty #1, see 105 ILCS 5/10-16 and 5/10-16.5 and policies 2:80, *Board Member Oath and Conduct*, and 2:210, *Organizational School Board Meeting*. Boards that elect officers for one-year terms and/or hold organizational meetings yearly, replace the default text in number 1 with the following:

Annually organizing the Board by electing officers and establishing its regular meeting schedule and, thereafter, taking action during lawfully called meetings to faithfully fulfill the Board's responsibilities in accordance with Board policy and State and federal law.

² 105 ILCS 5/10-20.5 and policy 2:240, *Board Policy Development*; 105 ILCS 5/10-21; and 115 ILCS 5/, III. Educational Labor Relations Act.

³ 105 ILCS 5/10-23.12(c), added by P.A. 101-531; 105 ILCS 5/21B-75(b), amended by P.A.s 101-531 and 102-552. For further discussion see f/n 22 in policy 5:90, *Abused and Neglected Child Reporting*. **Note:** While 105 ILCS 5/10-23.12(c) permits boards to *immediately* dismiss certain employees upon the determination that he or she has willfully or negligently failed to report, this does not negate a board's responsibility to provide employees with due process required by the law and district policies and procedures. Consult the board attorney for further guidance.

⁴ 105 ILCS 5/10-21.4 (employing superintendent); 5/10-20.7 and 5/10-21.1 (teachers); 5/10-21.9 (criminal history records checks); 5/10-22.34 (non-certificated personnel (this statute still uses *certificated* rather than *licensed*)); 5/10-22.4 (dismissing teachers for cause); and 5/10-23.5 and 5/24-12 (reduction in force). See policies in the **PRESS Policy Reference Manual** Sections 3, General School Administration, and 5, Personnel.

⁵ 105 ILCS 5/10-16.7.

6. Entering contracts using the public bidding procedure when required. ⁷
7. Providing, constructing, controlling, and maintaining adequate physical facilities; making school buildings available for use as civil defense shelters; and establishing a resource conservation policy. ⁸
8. Establishing an equal educational opportunities policy that prohibits unlawful discrimination. ⁹
9. Approving the curriculum, textbooks, and educational services. ¹⁰
10. Evaluating the educational program and approving School Improvement and District Improvement Plans. ¹¹
11. Presenting the District report card and School report card(s) to parents/guardians and the community; these documents report District, School, and student performance. ¹²
12. Establishing and supporting student behavior policies designed to maintain an environment conducive to learning, including deciding individual student suspension or expulsion cases brought before it. ¹³
13. Establishing attendance units within the District and assigning students to the schools. ¹⁴
14. Establishing the school year. ¹⁵
15. Requiring a moment of silence to recognize veterans during any type of school event held at a District school on November 11. ¹⁶
16. Providing student transportation services pursuant to State law. ¹⁷
17. Entering into joint agreements with other boards to establish cooperative educational programs or provide educational facilities. ¹⁸

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

⁶ 105 ILCS 5/10-20.19 and 5/17-1 *et seq.* See policies in the **PRESS** Policy Reference Manual Section 4, Operational Services.

⁷ 105 ILCS 5/10-20.21. See policy 4:60, *Purchases and Contracts*.

⁸ For the first clause, see 105 ILCS 5/10-20.6, 5/10-20.12, 5/10-22.10, 5/10-22.35A, and 5/10-22.36; and policy 4:150, *Facility Management and Building Programs*. For the second clause, see 105 ILCS 5/10-22.35. For the third clause, see 105 ILCS 5/10-20.19c and policy 4:70, *Resource Conservation*.

⁹ Many civil rights laws guarantee equal educational opportunities; see policy 7:10, *Equal Educational Opportunities*.

¹⁰ 105 ILCS 5/10-20.8. See policies in the **PRESS** Policy Reference Manual Section 6, Instruction.

¹¹ 105 ILCS 5/2-3.25d, which addressed school and district improvement plans, was repealed by P.A. 100-1046. 105 ILCS 5/2-3.25f, and 105 ILCS 5/27-1. For more specific information about school and district improvement plans, see policy 6:10, *Educational Philosophy and Objectives*, and f/n 6 in policy 6:15, *School Accountability*.

¹² 105 ILCS 5/10-17a, amended by P.A.s 100-364, 100-465, 100-807, 100-863, 100-1121, and 101-68. This statute details the requirements for *presenting* the district report card and school report card(s), including presenting them at a regular school board meeting and posting them on the district's website.

¹³ 105 ILCS 5/10-20.14 and 5/10-22.6, amended by P.A.s 100-105, 100-810, and 100-1035. See policies 7:190, *Student Behavior*; 7:200, *Suspension Procedures*; and 7:210, *Expulsion Procedures*.

¹⁴ 105 ILCS 5/10-21.3 and 5/10-22.5. See policy 7:30, *Student Assignment and Intra-District Transfer*.

¹⁵ 105 ILCS 5/10-19, amended by P.A.s 100-465, 101-12, and 101-643, and 23 Ill.Admin.Code §1.420. See policy 6:20, *School Year Calendar and Day*.

¹⁶ Recognizing veterans on Nov. 11 is required by 105 ILCS 5/10-20.46.

¹⁷ 105 ILCS 5/10-22.22. See policy 4:110, *Transportation*.

18. Complying with requirements in the Abused and Neglected Child Reporting Act (ANCRA). Specifically, each individual Board member must, if an allegation is raised to the member during an open or closed Board meeting that a student is an abused child as defined in ANCRA, direct or cause the Board to direct the Superintendent or other equivalent school administrator to comply with ANCRA's requirements concerning the reporting of child abuse. ¹⁹
19. Notifying the State Superintendent of Education promptly and in writing of the name of a licensed teacher who was convicted of a felony, along with the conviction and the name and location of the court where the conviction occurred. ²⁰
20. Notifying the Teachers' Retirement System (TRS) of the State of Ill. Board of Trustees promptly and in writing when it learns that a teacher as defined in the Ill. Pension Code was convicted of a felony, along with the name and location of the court where the conviction occurred, and the case number assigned by that court to the conviction. ²¹
- ~~19.~~²¹ Communicating the schools' activities and operations to the community and representing the needs and desires of the community in educational matters. ²²

Indemnification ²³

To the extent allowed by law, the Board shall defend, indemnify, and hold harmless School Board members, employees, volunteer personnel (pursuant to 105 ILCS 5/10-22.34, 10-22.34a and 10-22.34b), mentors of certified staff (pursuant to 105 ILCS 5/2-3.53a, 2-3.53b, and 105 ILCS 5/21A-5 et seq.), and student teachers who, in the course of discharging their official duties imposed or authorized by law, are sued as parties in a legal proceeding. Nothing herein, however, shall be construed as obligating the Board to defend, indemnify, or hold harmless any person who engages in criminal activity, official misconduct, fraud, intentional or willful and wanton misconduct, or acts beyond the authority properly vested in the individual.

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

¹⁸ 105 ILCS 5/10-22.31a. See policy 1:20, *District Organization, Operations, and Cooperative Agreements*.

¹⁹ 325 ILCS 5/4(d), amended by P.A. 101-564. *Abuse and neglect are defined in 325 ILCS 5/3; for an disabled adult student with a disability see 20 ILCS 1305/1-17(b).* While board members are not required to take mandated reporter training provided by the Ill. Dept. of Children and Family Services (DCFS), being familiar with ANCRA's definition of an abused child and how mandated reporting works enables board members to better meet their duty under 325 ILCS 5/4(d). Board members may learn about ANCRA by taking DCFS mandated reporter training (available to anyone online at: <https://mr.dcfstraining.org>) or IASB's ANCRA course (available in the Online Learning center at: www.iasb.com).

²⁰ 105 ILCS 5/21B-85(a).

²¹ *Id.* at 5/21B-85(b), amended by P.A. 102-552.

²² See policy 8:10, *Connection with the Community*.

²³ 105 ILCS 5/10-20.20 (duty to indemnify) and 5/10-22.3 (duty to insure against loss or liability). These statutes identify the same individuals for protection except that the indemnification statute includes mentors of certified staff members. See *fn 3* in policy 4:100, *Insurance Management*.

Public officials or employees who are sued or incur loss because of the performance of their duties imposed or authorized by law on behalf of the public entity are entitled to indemnification. *McQuillan on Municipal Corporations* §12.137 (3rd ed. 1973). Public employees who must defend themselves in actions based upon the performance of official duties are entitled to indemnification. *Wayne Twp. Bd. of Auditors v. Ludwig*, 154 Ill.App.3d 899 (2nd Dist. 1987). The public's interest is served by indemnifying public officials and employees in the performance of their official duties in order to recruit and retain qualified public employees and officials.

LEGAL REF.: 105 ILCS 5/10, 5/17-1, 5/21B-85, and 5/27-1.
115 ILCS 5/, Ill. Educational Labor Relations Act.
325 ILCS 5/, Abused and Neglected Child Reporting Act.

CROSS REF.: 1:10 (School District Legal Status), 1:20 (District Organization, Operations, and Cooperative Agreements), 2:10 (School District Governance), 2:80 (Board Member Oath and Conduct), 2:140 (Communications To and From the Board), 2:210 (Organizational School Board Meeting), 2:240 (Board Policy Development), 4:60 (Purchases and Contracts), 4:70 (Resource Conservation), 4:100 (Insurance Management), 4:110 (Transportation), 4:150 (Facility Management and Building Programs), 4:165 (Awareness and Prevention of Sexual Abuse and Grooming Behaviors), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:30 (Hiring Process and Criteria), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:150 (Personnel Records), 5:210 (Resignations), 5:290 (Employment Termination and Suspensions), 6:10 (Educational Philosophy and Objectives), 6:15 (School Accountability), 6:20 (School Year Calendar and Day), 7:10 (Equal Educational Opportunities), 7:30 (Student Assignment and Intra-District Transfer), 7:190 (Student Behavior), 7:200 (Suspension Procedures), 7:210 (Expulsion Procedures), 8:10 (Connection with the Community), 8:30 (Visitors to and Conduct on School Property)

8. First Reading of Revised Board of Education Policy 2:110 - Qualifications, Terms, and Duties of Board Officers

41

Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policy for Section 2:110 - Qualifications, Terms, and Duties of Board Officers, as presented. **See Attachment No. 6.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services *KJS*

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policy 2:110 - Qualifications, Term, and Duties of Board Officers

Reason for Board Consideration: The Board of Education approves updated Board Policy.

Action Necessary: That the Board of Education approve the updated Board Policy

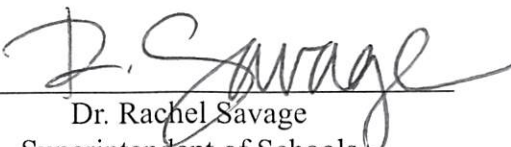
Facts: In the continuing quest to update the District's Board Policies, attached is Board Policy 2:110 - Qualifications, Term, and Duties of Board Officers, which was included as part of the November 2021 PRESS update review. This policy is updated in several ways:

- In response to P.A. 102-552, which was part of the General Assembly's focus on resolving Educator Misconduct.
- In response to P.A 101-640, allowing boards to meet remotely during a public health emergency.
- Continuous Improvement

Cost: None

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy 2:110 - Qualifications, Term, and Duties of Board Officers.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

School Board

Qualifications, Term, and Duties of Board Officers 1

The School Board officers are: President, Vice President, Secretary, and Treasurer.² These officers are elected or appointed by the Board at its organizational meeting.

President 3

The Board elects a President from its members for a two-year term. The duties of the President are to:

1. Preside at all meetings;
2. Focus the Board meeting agendas on appropriate content;
3. Make all Board committee appointments, unless specifically stated otherwise; 4
4. Attend and observe any Board committee meeting at his or her discretion; 5
5. Represent the Board on other boards or agencies;
6. Sign official District documents requiring the President's signature, including Board minutes and Certificate of Tax Levy;
7. Call special meetings of the Board;
8. Serve as the head of the public body for purposes of the Open Meetings Act and Freedom of Information Act; 6
9. Ensure that a quorum of the Board is physically present at all Board meetings, except as otherwise provided by the Open Meetings Act; 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. Selection of officers must be in open session. 5 ILCS 120/2. Board officer vacancies are discussed in *Answers to FAQs: Vacancies on the Board of Education*, Ill. Council of School Attorneys, www.iasb.com/law/vacancies.cfm.

² Districts governed by a board of directors have three officers: a president, clerk, and treasurer. The president and clerk must be board members. 105 ILCS 5/10-5. While there is no prohibition on a board member simultaneously serving in two officer positions, doing so may create either the appearance of impropriety or a compliance issue for purposes of fraud protocols. Consult the board attorney for further guidance and/or request that the board member consult his or her own attorney.

³ 105 ILCS 5/10-13. The board by resolution may decrease to one year the term of office for the president.

Of the listed duties, only the following are imposed by law: #1, preside at meetings (Id.); #6, sign minutes (105 ILCS 5/10-7) and sign certificate of tax levy (105 ILCS 5/17-11); #7, call special meetings (105 ILCS 5/10-16); and #8, serve as *head of the public body* for the Open Meetings Act (OMA) and the Freedom of Information Act (FOIA) purposes (5 ILCS 120/7(e) and 140/2(e), 140/7(f), and 140/9.5).

⁴ Alternatively, strike the "unless" clause and substitute: "subject to Board approval." Be sure this treatment is consistent with policy 2:150, *Committees*.

⁵ Optional. A board that wants the president to participate in committee meetings may use the following alternative: "Be a member of all Board committees." Using this alternative, the president would be counted to determine the number of members that constitutes a quorum for each board committee meeting. If a board would like the superintendent to attend any or all meetings of a board committee, it should consider asking the superintendent to be a committee resource person (or other such title) rather than an ex-officio member of the board committee itself. That way, the superintendent will not count to determine the number of committee members that constitutes a quorum.

⁶ The *head of the public body* or its attorney may request an advisory opinion from the Ill. Attorney General Public Access Counselor (PAC) concerning compliance with OMA or FOIA. 5 ILCS 120/3.5(h) and 5 ILCS 140/9.5(h). FOIA defines *head of the public body* to mean *president* or "such person's duly authorized designee." 5 ILCS 140/2(e). Preliminary drafts, recommendations, and other records in which opinions are expressed, or policies are formulated, lose this exemption from disclosure if a relevant portion of a requested record is publicly cited and identified by the *head of the public body*. 5 ILCS 140/7(l)(f).

⁷ Optional. Requiring the president to monitor the presence of a quorum assists compliance with OMA's mandate that a quorum be physically present at all board meetings, except as otherwise provided by OMA. 5 ILCS 120/7, amended by P.A. 101-640.

10. Administer the oath of office to new Board members; **8**
11. Serve as or appoint the Board's official spokesperson to the media; **and**
12. Except when the Board President is the subject of a complaint of sexual harassment, a witness, or otherwise conflicted, appoint a qualified outside investigator to conduct an independent review of allegations of sexual harassment made against a Board member by another Board member or elected official; **and** **9**
13. Ensure that the fingerprint-based criminal history records information checks and/or screenings required by State law and policy 5:30, *Hiring Process and Criteria*, are completed for the Superintendent. **10**

The President is permitted to participate in all Board meetings in a manner equal to all other Board members, including the ability to make and second motions.

The Vice President fills a vacancy in the Presidency. **11**

Vice President 12

The Board elects a Vice President from its members for a two-year term. The Vice President performs the duties of the President if:

1. The office of President is vacant;
2. The President is absent; or
3. The President is unable to perform the office's duties.

A vacancy in the Vice Presidency is filled by a special Board election.

Secretary 13

The Board elects a Secretary for a two-year term. The Secretary may be, but is not required to be, a Board member. The Secretary may receive reasonable compensation as determined by the Board before appointment. However, if the Secretary is a Board member, the compensation shall not exceed \$500

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

8 Optional. Omit this duty if policy 2:80, *Board Member Oath and Conduct*, provides that the board member oath is given by other means.

9 See policy 2:105, *Ethics and Gift Ban, Complaints of Sexual Harassment Made Against Board Members by Elected Officials* subhead. 5 ILCS 430/70-5, amended by P.A. 101-221, requires school districts to amend their sexual harassment policies "to provide for a mechanism for reporting and independent review of allegations of sexual harassment made against an elected official of the governmental unit by another elected official of a governmental unit." If the board has chosen to have the Superintendent appoint an outside investigator in these cases (see 2:105, *Ethics and Gift Ban*, at fn 12+), remove item 12 from the list of board president duties and delete the Cross Reference to 2:105, *Ethics and Gift Ban*.

10 See the subhead entitled *Screening* in sample policy 4:175, *Convicted Child Sex Offender; Screening; Notifications*, and fn 12 of policy 5:30, *Hiring Process and Criteria*.

11 105 ILCS 5/10-13.1 states that the "vice-president shall perform the duties of the president if there is a vacancy in the office of president or in case of the president's absence or inability to act" However, an earlier enacted statute calls for the appointment of a *president pro tempore* if the president is absent from any meeting or refuses to perform his or her duties, and specifies that the "vice-president, if the board elects such officer, shall be appointed the president pro tempore." 105 ILCS 5/10-13. This policy resolves any confusion by implementing the latter enacted statute and stating that the vice president fills a vacancy in the presidency.

12 105 ILCS 5/10-13.1. The board by resolution may decrease to one year the term of office for the vice president.

13 105 ILCS 5/10-14. The board by resolution may decrease to one year the term of office for the secretary. In districts governed by a board of directors, a clerk who is a board member performs these duties. 105 ILCS 5/10-5. The policy's provisions regarding compensation are required by 105 ILCS 5/10-14 (governs secretaries who are board members and non-board members) and by 50 ILCS 145/2 (governs secretaries who are board members).

Of the listed duties, only the following are imposed by law: #1, board meeting minutes (105 ILCS 5/10-7; see policy 2:220, *School Board Meeting Procedure*, for the requirements for minutes); #3, records board's official acts and submits them to the treasurer (105 ILCS 5/10-7); #4, treasurer's report (105 ILCS 5/10-8); #5, local election official (see fns 2 and 7 of policy 2:30, *School District Elections*); #6, public inspection of the budget (105 ILCS 5/17-1).

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" in item #4 with "appropriate Intermediate Service Center."

per year, as fixed by the Board at least 180 days before the beginning of the term.¹⁴ The duties of the Secretary are to:

1. Keep minutes for all Board meetings, and keep the verbatim record for all closed Board meetings;
2. Mail meeting notification and agenda to news media who have officially requested copies;
3. Keep records of the Board's official acts, and sign them, along with the President, before submitting them to the Treasurer at such times as the Treasurer may require;
4. Report to the Treasurer on or before July 7, annually, such information as the Treasurer is required to include in the Treasurer's report to the Regional Superintendent;
5. Act as the local election official for the District;
6. Arrange public inspection of the budget before adoption;
7. Publish required notices;
8. Sign official District documents requiring the Secretary's signature; and
9. Maintain Board policy and such other official documents as directed by the Board.

The Secretary may delegate some or all of these duties, except when State law prohibits the delegation. The Board appoints a secretary pro tempore, who may or may not be a Board member, if the Secretary is absent from any meeting or refuses to perform the duties of the office. A permanent vacancy in the office of Secretary is filled by special Board election.

Recording Secretary 15

The Board may appoint a Recording Secretary who is a staff member. The Recording Secretary shall:

1. Assist the Secretary by taking the minutes for all open Board meetings;
2. Assemble Board meeting material and provide it, along with prior meeting minutes, to Board members before the next meeting; and
3. Perform the Secretary's duties, as assigned, except when State law prohibits the delegation.

In addition, the Recording Secretary or Superintendent receives notification from Board members who desire to attend a Board meeting by video or audio means. ¹⁶

Treasurer 17

The Treasurer of the Board shall be either a member of the Board who serves a one-year term or a non-Board member who serves at the Board's pleasure.¹⁸ A Treasurer who is a Board member may not be

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

¹⁴ 105 ILCS 5/10-14 and 50 ILCS 145/2.

¹⁵ This section is optional.

¹⁶ To allow attendance by video or audio means, a board must adopt policy language conforming to the restrictions in OMA. 5 ILCS 120/2.01 and 120/7, both amended by P.A. 101-640. See subhead **Quorum and Participation by Audio or Video Means** in policy 2:220, *School Board Meeting Procedure*, and its fn 31.

¹⁷ This section is for: (1) districts in a Class I county (all counties except Cook Co.), or (2) a Class II county (Cook Co.) district that has withdrawn from the authority of the township treasurer or is located in a township in which the office of township treasurer was abolished. 105 ILCS 5/5-1 defines Class I county school units as districts in counties with less than 2,000,000 inhabitants. Those districts in Cook County (Class II county) under the authority of the trustees of schools of the township and the township treasurers should use this alternative: "Qualifications, appointment, and duties of the Treasurer for the School District shall be as provided in the School Code." See 105 ILCS 5/8-1(a) for how the township treasurer is appointed and the term of office; duties are found in 105 ILCS 5/8-2, 5/8-5, 5/8-6, 5/8-7, 5/8-16, and 5/8-17. For districts in a Class II county, in the Legal References insert "5/8-5" before "5/8-6" and insert "5/8-7" after "5/8-6."

¹⁸ 105 ILCS 5/8-1(b). The treasurer's term of office is two years if the district is located in a Class II county (Cook Co.) that was under the jurisdiction and authority of the township treasurer and township trustees of schools at the time those offices were abolished. 105 ILCS 5/8-1(c). Those boards should use the following alternative:

The Treasurer of the Board shall serve a two-year term beginning and ending on the first day of July.

compensated.¹⁹ A Treasurer who is not a Board member may be compensated provided it is established before the appointment.²⁰ The Treasurer must: ²¹

1. Be at least 21 years old;
2. Not be a member of the County Board of School Trustees; and
3. Have a financial background or related experience, or 12 credit hours of college-level accounting.

The Treasurer shall: ²²

1. Furnish a bond, which shall be approved by a majority of the full Board;
2. Maintain custody of school funds;
3. Maintain records of school funds and balances;
4. Prepare a monthly reconciliation report for the Superintendent and Board; and
5. Receive, hold, and expend District funds only upon the order of the Board.

A vacancy in the Treasurer's office is filled by Board appointment.

LEGAL REF.: 5 ILCS 120/7 and 420/4A-106.
105 ILCS 5/8-1, 5/8-2, 5/8-3, 5/8-6, 5/8-16, 5/8-17, 5/10-1, 5/10-5, 5/10-7, 5/10-8,
5/10-13, 5/10-13.1, 5/10-14, 5/10-16.5, 5/10-21.9, and 5/17-1, and 5/21B-85.

CROSS REF.: 2:80 (Board Member Oath and Conduct), 2:105 (Ethics and Gift Ban), 2:150 (Committees), 2:210 (Organizational School Board Meeting), 2:220 (School Board Meeting Procedure)

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

¹⁹ 105 ILCS 5/8-1(b) and (c).

²⁰ 105 ILCS 5/8-3.

²¹ Qualification #1 is required for treasurers in a Class I county or Class II county (Cook Co.) that withdrew from the authority of the township treasurer and township trustees of schools. 105 ILCS 5/8-1(b). This sample policy makes it applicable to Class II county (Cook Co.) districts that were under the authority of the township treasurer and township trustees of schools at the time those offices were abolished.

Qualification #2 is required for treasurers in a Class I county or Class II county (Cook Co.) that withdrew from the authority of the township treasurer and township trustees of schools. 105 ILCS 5/8-1(b). Districts in a Class II county (Cook Co.) that were under the authority of the township treasurer and township trustees of schools at the time those offices were abolished should replace this qualification as follows: "2. Not be the District Superintendent." 105 ILCS 5/8-1(c).

Qualification #3 is required for treasurers in a Class I county. 105 ILCS 5/8-1(d). This qualification should be replaced by the following for districts in a Class II county (Cook Co.): "Upon being appointed for his or her first term, be a certified public accountant or a certified chief school business official as defined in the School Code; experience as a township treasurer in a Class II county school before July 1, 1989 is deemed equivalent." 105 ILCS 5/8-1(e).

²² 105 ILCS 5/8-2, 5/8-6, 5/8-7, and 5/8-16.

9. First Reading of Revised Board of Education Policy 2:120 - Board Member Development

47

Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policy for Section 2:120 - Board Member Development, as presented. **See Attachment No. 7.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services *KS*

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policy 2:120 - Board Member Development

Reason for Board Consideration: The Board of Education approves updated Board Policy.


Action Necessary: That the Board of Education approve the updated Board Policy

Facts: In the continuing quest to update the District's Board Policies, attached is Board Policy 2:120 - Board Member Development, which was included as part of the November 2021 PRESS update review. This policy is updated in response to P.A. 102-638, requiring, in the fall of 2023, professional development leadership training to also include trauma-informed practices for students and staff, as well as continuous improvements.

Cost: None

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy 2:120 - Board Member Development.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

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 Training³

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 four hours of professional development leadership training in education and labor law, financial oversight and accountability, and fiduciary responsibilities, and (beginning in the fall of 2023) trauma-informed practices for students and staff within the first year of his or her first term.⁴
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

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

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/principles.cfm.

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, amended by P.A. 102-638. See 105 ILCS 5/10-16a(b-5) for the required and recommended elements of the training regarding trauma-informed practices.

⁵ 5 ILCS 120/1.05(b) and (e). IASB is an authorized provider of this training. 5 ILCS 120/1.05(c).

⁶ 105 ILCS 5/24-16.5. This mandatory training requirement was phased-in as districts implemented evaluations that incorporate student growth as a significant factor, otherwise known as Performance Evaluation Reform Act (PERA) evaluations. The implementation timeline for PERA evaluations varied from district to district but all districts must 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 Behavior⁸

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, appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates.

Board Self-Evaluation

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

New Board Member Orientation¹⁰

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.

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

⁷ 105 ILCS 5/10-16a requires each school district to post on its website, if any, the names of all board members who have completed the minimum of four 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), amended by P.A. 100-810, eff. 1-1-19. 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(Bc)(16).

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*.

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.

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)


DRAFT

10. First Reading of Revised Board of Education Policy 2:220 - School Board Meeting Procedure

52

Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policy for Section 2:220 - School Board Meeting Procedure, as presented. **See Attachment No. 8.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services 

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policy 2:220 - School Board Meeting Procedure

Reason for Board Consideration: The Board of Education approves updated Board Policy.


Action Necessary: That the Board of Education approve the updated Board Policy

Facts: In the continuing quest to update the District's Board Policies, attached is Board Policy 2:220 - School Board Meeting Procedure, which was included as part of the November 2021 PRESS update review. This policy is updated in response to P.A. 102-653 clarifying when boards and their committees must conduct reviews of their closed session minutes, and for continuous improvement.

Cost: None

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy 2:220 - School Board Meeting Procedure.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

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 extensive discussion 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 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, amended by P.A. 101-640). 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's Foundational Principles of Effective Governance* at: www.iasb.com/IASB/media/Documents/found_prin.pdf.

³ To comply with the Open Meetings Act's (OMA'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. OMA also requires that any final action "be preceded by a public recital of the nature of the matter being considered and other information that will inform the public of the business being conducted." 495 ILCS 120/2(e). Some level of explanation of the consent agenda items must be verbally given before a board votes to approve a consent agenda. The Ill. Supreme Court has held that "the recital must announce the nature of the matter under consideration, with sufficient detail to identify the particular transaction or issue, but need not provide an explanation of its terms or its significance." *Bd. of Education of Springfield Sch. Dist. No. 186 v. Atty. Gen. of Ill.*, 77 N.E.3d 625 (Ill. 2017).

⁴ 5 ILCS 120/2.02(c). The Ill. Appellate Court held that OMA 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*, 326 Ill.App.3d 1120 (4th Dist. 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.

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 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

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

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.

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*, 978 N.E.2d 681 (1st Dist. 2012). For example, a motion passes with a vote of two *yeas*, one *nay*, and four *abstentions*. A motion fails with a vote of two *yeas*, three *nays*, and two *abstentions*. A motion fails with a vote of three *yeas*, 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), 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 corporate for a term longer than 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 ten years, or to alter the terms of such a lease whose unexpired term exceeds 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.

On all questions involving the expenditure of money and on all questions involving the closing of a meeting to the public, a roll call vote shall be taken and entered in the Board's minutes. An individual Board member may request that a roll call vote be taken on any other matter; the President or other presiding officer may approve or deny the request but a denial is subject to being overturned by a majority vote of the members present. 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 (OMA) 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~~ Every six months, or as soon after as is practicable, in an open meeting, the Board: (1) reviews minutes from all closed meetings that are currently unavailable for public release, and (2) ~~decides~~ determines which, if any, no longer require confidential treatment and are available for

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 (PAC) 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).

public inspection.¹⁶ This is also referred to as a *semi-annual review*. The Board may meet in a prior closed session to review the minutes from closed meetings that are currently unavailable for public release, but it reports its determination in open session.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 10 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 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

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

¹⁶ Required by 5 ILCS 120/2.06(de), amended by P.A. 102-653. If a board is unable to conduct the review every six months, it must do so as soon after as is practicable, taking into account the nature and meeting schedule of the board. *Id.* A board may also conduct the review more frequently. For the sake of brevity and to align with the closed meeting exception in 5 ILCS 120/2(c)(21) that continues to refer to a public body's *semi-annual* review of its closed session minutes, this policy's exhibits use the term *semi-annual*, even though that term was removed from 5 ILCS 120/2.06(d).

While board notes from closed sessions may be confidential under the Freedom of Information Act (FOIA), they may be discoverable by the opposing party in a lawsuit. *Bobkoski v. Cary Sch.*, 26 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(d), amended by P.A. 102-653.

¹⁷ 5 ILCS 120/2(c)(21) 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(b).

²¹ 5 ILCS 120/2.06(fe). 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(a). 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.

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

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 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. 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

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

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). 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~~ the board member 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. 5 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, which amended 5 ILCS 120/2.06(c), was to manage a board member's *individual* request for access to these items in ~~his or her~~ the board member's 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.

meetings, the recordings of closed meetings should not be used by Board members to confirm or dispute the accuracy of recollections. 30

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.

No Physical Presence of Quorum and Participation by Audio or Video; Disaster Declaration 32

The ability of the Board to meet in person with a quorum physically present at its meeting location may be affected by the Governor or the Director of the Ill. Dept. of Public Health issuing a disaster

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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, OMA did (and still does) allow boards to release these types of information. 5 ILCS 120/2.06(c). Further, Ill. Atty. 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 5 ILCS 120/2.06(e) 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.

31 5 ILCS 120/2.01 and 120/7, amended by P.A. 101-640. 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 OMA. 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.

In a non-binding opinion, the PAC found a public body violated OMA when it allowed a board member to join a closed session meeting remotely without first taking action at that particular meeting in open session to approve the remote participation. 2019 PAC 57660. Therefore, even with the adoption of this policy to approve remote participation, best practice is to ensure the public is informed of any board members that are participating remotely for a particular board meeting. Consult the board attorney for advice on whether the board should take action every time it wishes to permit a member to participate remotely or in those instances where a board member objects to such participation.

32 5 ILCS 120/2.01 and 120/7(e)(1)-(10), amended by P.A. 101-640. See also 105 ILCS 5/10-6 and 5/10-12. During the 2020 COVID-19 pandemic, Ill. Gov. Pritzker issued Executive Order (EO) 2020-07 pursuant to 20 ILCS 3305/7 (disaster proclamation due to public health emergency) that temporarily suspended OMA’s physical quorum requirement. The Governor extended this OMA relief through subsequent Executive Orders as the crisis continued. See EOs 2020-18, 2020-33, and 2020-39. During the period covered by EO 2020-39, In June of 2020, 5 ILCS 120/1207(e), amended by P.A. 101-640 was enacted, immediately requiring public bodies to meet a number of conditions before suspending the physical quorum requirement.

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

declaration related to a public health emergency.³³ The Board President or, if the office is vacant or the President is absent or unable to perform the office's duties, the Vice President determines that an in-person meeting or a meeting conducted under the **Quorum and Participation by Audio or Video Means** subhead above, is not practical or prudent because of the disaster declaration; if neither the President nor Vice President are present or able to perform this determination, the Superintendent shall serve as the duly authorized designee for purposes of making this determination.³⁴

The individual who makes this determination for the Board shall put it in writing, include it on the Board's published notice and agenda for the audio or video meeting and in the meeting minutes,³⁵ and ensure that the Board meets every OMA requirement for the Board to meet by video or audio conference without the physical presence of a quorum.³⁶

Rules of Order

Unless State law or Board-adopted rules apply, the Board President, as the presiding officer, will use the most recent edition of Robert's Rules of Order, Newly Revised (11th Edition), as a guide when a question arises concerning procedure.³⁷

Broadcasting and Recording Board Meetings

Any person may record or broadcast an open Board meeting.³⁸ 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.

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

³³ The phrase "due to public health emergency" aligns with Ill. Emergency Act (IEMA), 20 ILCS 3305/4 and 7, which provides the governor with the power to declare a disaster. 5 ILCS 120/7(e)(1), amended by P.A. 101-640, uses the phrase "related to public health concerns because [the governor has declared] a disaster" and while not aligning with IEMA text, means "public health emergency." For ease of understanding and alignment with IEMA, this policy uses "public health emergency."

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

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

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

³⁵ While this phrase of the sentence is not required in OMA, many attorneys agree that transparency best practices in this situation include the individual making the determination to: (1) put it in writing referring to the specific disaster declaration applicable to the board's jurisdiction and the public health concern/public health emergency that applies to not having an in-person meeting; and (2) include that written determination (a) on the board's published notice and agenda for the audio or video meeting, and (b) in the meeting minutes.

³⁶ See 2:220-E9, *Requirements for No Physical Presence of Quorum and Participation by Audio or Video During Disaster Declaration*.

³⁷ 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.

³⁸ 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.

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, 120/2.06, and 120/7.
105 ILCS 5/10-6, 5/10-7, 5/10-12, and 5/10-16.

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


DRAFT

11. First Reading of Revised Board of Education Policy 2:260 - Uniform Grievance Procedure

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Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policy for Section 2:260 - Uniform Grievance Procedure, as presented. **See Attachment No. 9.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services 

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policy 2:260 - Uniform Grievance Procedure

Reason for Board Consideration: The Board of Education approves updated Board Policy.


Action Necessary: That the Board of Education approve the updated Board Policy

Facts: In the continuing quest to update the District's Board Policies, attached is Board Policy 2:260 - Uniform Grievance Procedure, which was included as part of the November 2021 PRESS update review. This policy is updated in response to P.A. 102-238, requiring districts to ensure their Internet websites or web services comply with Level AA of the Web Content Accessibility Guidelines 2.1 or any revised version of these guidelines.

Cost: None

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy 2:260 - Uniform Grievance Procedure.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

School Board

Uniform Grievance Procedure 1

A student, parent/guardian, employee, or community member should notify any District Complaint Manager if he or she believes that the School Board, its employees, or its agents have violated his or her rights guaranteed by the State or federal Constitution, State or federal statute, or Board policy², or have a complaint regarding any one of the following:³

1. Title II of the Americans with Disabilities Act, 42 U.S.C. §12101 et seq.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 be covered by policy and 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. Employee grievance procedures are a mandatory subject of bargaining and cannot be changed without the employee exclusive representative's consent. This policy and its companion sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, are in addition to, and not a substitute for, the employee grievance procedure contained in a collective bargaining agreement.

A grievance procedure is required by many civil rights acts and implementing regulations, including those listed. For the sake of consistency and ease of administration, this policy consolidates all board grievance procedures, excluding Title IX sexual harassment complaints (see sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*) into one policy, except those contained in collective bargaining agreements. See the cross references for the policies referring to this uniform grievance procedure policy.

² Including the phrase "guaranteed by the State or federal Constitution, State or federal statute, or Board policy" broadens the scope of this policy beyond the items listed. Consult the board attorney regarding whether to retain this phrase and/or to otherwise limit the scope of this policy.

³ The Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §1400 et seq.) is not included in the list of statutes that may serve as the basis of a grievance, and attorneys disagree whether it should be. Many believe that IDEA provides the exclusive remedy; others believe that including IDEA allows parents an opportunity to get their position before the board. Unique and specific complaint resolution mechanisms are expressly provided under IDEA, Article 14 of the School Code, and their respective implementing regulations. These mechanisms follow: (1) IDEA at 20 U.S.C. §1415 (procedural safeguards- mediation and due process); (2) IDEA regulations at 34 C.F.R. §§300.151-300.153 (state complaints), 300.506 (mediation), and 300.507 et seq. (due process); (3) School Code at §§14/8.02a (mediation and due process) and 14/8.02b (expedited due process); and (4) special education regulations at 23 Ill.Admin.Code §§226.560 (Mediation), 226.570 (State Complaint Procedures), and Subpart G (due process). A board that would like to include IDEA should consult the board attorney.

⁴ The Americans with Disabilities Act Amendments Act (ADAAA) (Pub. L. 110-325), made significant changes to the Americans with Disabilities Act's definition of disability by broadening the scope of coverage. The ADAAA also overturned a series of U.S. Supreme Court decisions that interpreted the Americans with Disabilities Act of 1990 in a way that made it difficult to prove that impairments were a disability. The U.S. Equal Employment Opportunity Commission's (EEOC) regulations, 29 C.F.R. Part 1630, are at: www.eeoc.gov/laws/types/disability_regulations.cfm.

Boards should consult with their attorneys regarding how the ADAAA and its implementing regulations impact their districts.

Title II of the ADA of 1990 also includes website accessibility. Addressing website accessibility is complicated. Many entities addressing website accessibility use *Web Content Accessibility Guidelines* (WCAG) 2.0 or 2.1, a frequently cited accessibility standard that contains guidelines developed by a private group of accessibility experts. See www.w3.org/WAI/standards-guidelines/wcag/. WCAG 2.0 is the standard the U.S. Dept. of Justice referenced in its recent Title II rulemaking; however, it is not adopted as the formal legal standard for public accommodation websites. While WCAG is not adopted as the formal federal legal standard for public accommodation websites, it has been used in many consent decrees and settlement agreements, and it is required by the School Code. See www.w3.org/TR/WCAG20/, 105 ILCS 5/10-20.75 (final citation pending), added by P.A. 102-238, eff. 8-1-22, requires school districts to ensure their *Internet websites or web services* comply with Level AA of the WCAG 2.1 or any revised version of those guidelines. *Internet website or web service* means "any third party online curriculum that is made available to enrolled students or the public by a school district through the Internet." *Id.*

2. Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 *et seq.*, excluding Title IX sexual harassment complaints governed by policy 2:265, *Title IX Sexual Harassment Grievance Procedure*
3. Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §791 *et seq.*⁵
4. Title VI of the Civil Rights Act, 42 U.S.C. §2000d *et seq.*
5. Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. §2000e *et seq.*
6. Sexual harassment prohibited by the State Officials and Employees Ethics Act⁶, 5 ILCS 430/70-5(a); Illinois Human Rights Act, 775 ILCS 5/; and Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.* (Title IX sexual harassment complaints are addressed under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*)⁷

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

⁵ See f/n 4's discussion of website accessibility above. To avoid allegations that a district violated Section 504 of the Rehabilitation Act of 1973 and Title II of the ADA of 1990, many attorneys suggest that school districts' websites meet the WCAG 2.0 guidelines. But see also the discussion in f/n 2 of *sample policy 8:70, Accommodating Individuals with Disabilities*.

⁶ 5 ILCS 430/70-5(a), amended by P.A.s 100-554 and 101-221, requires governmental entities (including school districts) to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment that contains certain prescribed elements. See *sample policy 5:20, Workplace Harassment Prohibited*, at f/n 3 and subhead **Complaints of Sexual Harassment Made Against Board Members by Elected Officials** in *sample policy 2:105, Ethics and Gift Ban*, for further detail. Complaints of sexual harassment made against board members by fellow board members or other elected officials of governmental units must undergo an *independent review*, which is not a term defined in the statute. Unlike 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. School districts are also required to create, maintain, and implement an age-appropriate sexual harassment policy. 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-418. See *sample policy 7:20, Harassment of Students Prohibited*, and its f/n 89 for further information.

A new publication law, 50 ILCS 205/3c, added by P.A. 100-1040, requires a school district to post on its website and make available to news media specific information about severance agreements that it enters into because an employee or contractor was "found to have engaged in sexual harassment or sexual discrimination, as defined by the Ill. Human Rights Act or Title VII of the Civil Rights Act of 1964." Consult the board attorney about the word *found*. It raises many practical application questions, e.g., when does the word *found* trigger a board's compliance responsibility pursuant to this law. Such questions include, but are not limited to:

1. Must a school board make a *finding* to trigger this requirement? If the severance agreement is entered into post-termination, a record of board *findings* rarely exists.
2. Are charges for termination *findings*? Often superintendents submit charges for termination, but these are not technically *findings*.
3. Are charges based on a complaint manager's report and determination(s) *findings* under the law when a board still has the ability to review and reject the complaint manager's determination(s)?

Next, contrast the above publication law with the Government Severance Pay Act (GSPA), 5 ILCS 415/10(a)(2), added by P.A. 100-895. GSPA prohibits an employee of a school district with contract provisions for severance pay from receiving any severance if he or she is fired for *misconduct* by the board. GSPA defines *misconduct* to include sexual harassment and/or discrimination. *Id.* at 415/5.

Consult the board attorney about how to reconcile whether sexual harassment and/or sexual discrimination is misconduct for which a severance would be prohibited under the GSPA, and therefore, not available to be published under 50 ILCS 205/3c, added by P.A. 100-1040. And for further discussion and other applicable transparency laws that apply to this issue, see also f/n 15 in *sample policy 5:20, Workplace Harassment Prohibited*.

⁷ Consult the board attorney regarding proper filing and storage of these investigation documents, including whether certain student-related investigation documents are *sole possession records*, a Family Policy Compliance Office (FPCO)-created an exemption to the Family Education Rights Privacy Act (FERPA) (20 U.S.C. §1232g). See *Letter to Ruscio*, 115 LRP 18601 (FPCO 12-17-14).

7. Breastfeeding accommodations for students, 105 ILCS 5/10-20.60 ⁸
8. Bullying, 105 ILCS 5/27-23.7 ⁹
9. Misuse of funds received for services to improve educational opportunities for educationally disadvantaged or deprived children ¹⁰
10. Curriculum, instructional materials, and/or programs
11. Victims' Economic Security and Safety Act, 820 ILCS 180/
12. Illinois Equal Pay Act of 2003, 820 ILCS 112/
13. Provision of services to homeless students
14. Illinois Whistleblower Act, 740 ILCS 174/ ¹¹
15. Misuse of genetic information prohibited by the Illinois Genetic Information Privacy Act, 410 ILCS 513/; and Titles I and II of the Genetic Information Nondiscrimination Act, 42 U.S.C. §2000ff et seq. ¹²

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

⁸ 105 ILCS 5/10-20.60, added by P.A. 100-29, requires schools to implement the Ill. sex equity grievance procedures when processing student complaints about breastfeeding accommodations. Complainants must be informed that the board's decision may be appealed to the Regional Superintendent and, thereafter, to the State Superintendent. 23 Ill.Admin.Code §200.40. **Note:** Certain claims brought under Sec. 10-20.60 may also be covered by the anti-discrimination protections of Title IX; consult the board attorney for further advice. Guidance from U.S. Dept. of Education on Title IX requirements for pregnant and parenting students (June 2013) is available at: www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf www2.ed.gov/about/offices/list/ocr/frontpage/pro-students/issues/sex-issuc03.html.

⁹ All districts must have a policy on bullying. 105 ILCS 5/27-23.7. See sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The inclusion of *bullying* in the list of topics that may serve as the basis of a grievance furthers the obligation to communicate this policy to students and their parents/guardians.

¹⁰ Parents/guardians of educationally disadvantaged children may sue a district for misuse of funds allocated by State law for the benefit of such children. *Noyola v. Bd. of Educ.*, 179 Ill.2d 121 (Ill. 1997) (affirming the appellate court's conclusion in *Noyola v. Bd. of Educ.*, 284 Ill.App.3d 128 (1st Dist. 1996) that parents/guardians may pursue a claim to enforce the requirements of the School Code but holding that the proper action for enforcement is by means of mandamus not an implied right of action).

¹¹ The Ill. Whistleblower Act (740 ILCS 174/) includes school districts in the definition of employer. It protects employees from employer retaliation for disclosing information to a government or law enforcement agency. Section 15 also contains language prohibiting employers from retaliating against employees who disclose 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. The Ill. Whistleblower-Reward and Protection False Claims Act (740 ILCS 1751-74/) includes school districts in its definition of *State*. A strict interpretation of this language appears to allow school boards to collect civil penalties and costs against someone making a false claim. Before disciplining any employee, boards should thoroughly investigate the ramifications of these acts in consultation with their attorney and liability insurance carriers.

¹² The Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. §2000ff et seq.) is a federal law. Title I addresses the use of genetic information pertaining to health insurance. Title II protects job applicants, current and former employees, labor union members, and apprentices and trainees from discrimination based on their genetic information. GINA covers employers with 15 or more employees.

16. Employee Credit Privacy Act, 820 ILCS 70/ 13

The Complaint Manager will first attempt to resolve complaints without resorting to this grievance procedure. If a formal complaint is filed under this policy, the Complaint Manager will address the complaint promptly and equitably. A student and/or parent/guardian filing a complaint under this policy may forego any informal suggestions and/or attempts to resolve it and may proceed directly to this grievance procedure. The Complaint Manager will not require a student or parent/guardian complaining of any form of harassment to attempt to resolve allegations directly with the accused (or the accused's parents/guardians); this includes mediation.

Right to Pursue Other Remedies Not Impaired

The right of a person to prompt and equitable¹⁴ resolution of a complaint filed under this policy shall not be impaired by the person's pursuit of other remedies, e.g., criminal complaints, civil actions, etc. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies and use of this grievance procedure does not extend any filing deadline related to the pursuit of other remedies. If a person is pursuing another remedy subject to a complaint under this policy, the District will continue with a simultaneous investigation under this policy.

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GINA broadly defines genetic information to include information about an individual's genetic tests, their family members, and, among other things, the manifestation of a disease or disorder in the individual or the individual's family members. Information about an individual's or family member's age or gender is excluded from genetic information. Its remedies mirror those available under a Title VII of the Civil Rights Act claim: back pay, reinstatement, attorneys' fees and compensatory and punitive damages. Retaliation against an individual who brings a claim under GINA is also prohibited. Federal regulations are available at 29 C.F.R. Part 1635, and background information on these regulations is available at: www.eeoc.gov/policy/docs/qaanda-geneticinfo.html www.eeoc.gov/regulations-related-genetic-discrimination. An FAQ entitled *FAQs on the Genetic Information Nondiscrimination Act* is available at: www.dol.gov/agencies/ebsa/laws-and-regulations/laws/gina.

The Ill. Genetic Information Protection Act (GIPA) (410 ILCS 513/ amended by P.A. 100-396) also prohibits employers from making employment decisions on the basis of any employee's genetic testing information and from penalizing employees who do not want to disclose their genetic information as part of a workplace wellness program. GIPA includes the federal GINA's definition of genetic information and creates more stringent obligations on Ill. employers. While the federal GINA exempts small employers (those with less than 15 employees), Illinois' GIPA covers all employers, even those with one employee. GIPA also provides penalties for negligent and intentional mishandling of genetic information. Note that Title II of GINA does not preempt GIPA's greater protections to Illinois employees.

Before using any sort of genetic information, consult the board attorney for guidance regarding GINA's and GIPA's specific applications to the district and how these laws integrate with other related federal laws, such as the Family and Medical Leave Act (29 U.S.C. §2612 et seq.) and the ADA, and State laws governing time off for sickness and workers' compensation.

¹³ 820 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, when the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more. 820 ILCS 70/10(b). A person who is injured by a violation of this Act may bring a civil action to obtain injunctive relief and/or damages. 820 ILCS 70/25. The court must award costs and reasonable attorneys' fees to a prevailing plaintiff. Id.

¹⁴ The phrase "prompt and equitable resolution" comes from Title IX implementing regulation 34 C.F.R. §106.8(c) which requires schools to "adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints" of sex discrimination.

Deadlines

All deadlines under this policy may be extended by the Complaint Manager as he or she deems appropriate. As used in this policy, *school business days* means days on which the District's main office is open.

Filing a Complaint

A person (hereinafter Complainant) who wishes to avail him or herself of this grievance procedure may do so by filing a complaint with any District Complaint Manager. The Complainant shall not be required to file a complaint with a particular Complaint Manager and may request a Complaint Manager of the same gender.¹⁵ The Complaint Manager may request the Complainant to provide a written statement regarding the nature of the complaint or require a meeting with a student's parent(s)/guardian(s). The Complaint Manager shall assist the Complainant as needed.

For any complaint alleging bullying and/or cyberbullying of students, the Complaint Manager shall process and review the complaint according to Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, in addition to any response required by this policy. For any complaint alleging sexual harassment or other violation of Board policy 5:20, *Workplace Harassment Prohibited*, the Complaint Manager shall process and review the complaint according to that policy, in addition to any response required by this policy.

Investigation Process

The Complaint Manager will investigate the complaint or appoint a qualified person to undertake the investigation on his or her behalf.¹⁶ The Complaint Manager shall ensure both parties have an equal opportunity to present evidence during an investigation. If the Complainant is a student under 18 years of age, the Complaint Manager will notify his or her parents/guardians that they may attend any investigatory meetings in which their child is involved. The complaint and identity of the Complainant will not be disclosed except: (1) as required by law, or this policy, or any collective bargaining agreement. (2) as necessary to fully investigate the complaint, or (3) as authorized by the Complainant.

The identity of any student witnesses will not be disclosed except: (1) as required by law, this policy, or any collective bargaining agreement, (2) as necessary to fully investigate the complaint, or (3) as authorized by the parent/guardian of the student witness, or by the student if the student is 18 years of age or older.

The Complaint Manager will inform, at regular intervals, the person(s) filing a complaint under this policy about the status of the investigation. Within 30 school business days after the date the complaint was filed, the Complaint Manager shall file a written report of his or her findings with the Superintendent. The Complaint Manager may request an extension of time.

The Superintendent will keep the Board informed of all complaints.

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

¹⁵ This is a best practice.

¹⁶ This policy gives complaint managers the flexibility to appoint another individual to conduct an investigation, which may be appropriate in cases where the neutrality or efficacy of the complaint manager is an issue, and/or where the district wishes to have the expertise and related attorney-client and work product privileges that an in-house or outside attorney may afford an investigation. Such alternative appointments are often made in consultation with the superintendent or other district-level administrator (except in cases involving complaints about those individuals).

If a complaint contains allegations involving the Superintendent or Board member(s), the written report shall be filed directly with the Board, which will make a decision in accordance with paragraph four of the following section of this policy.

Decision and Appeal

Within five school business days after receiving the Complaint Manager's report, the Superintendent shall mail his or her written decision to the Complainant and the accused by ~~first class U.S. mail~~ registered mail, return receipt requested, and/or personal delivery¹⁷ as well as to the Complaint Manager. All decisions shall be based upon the *preponderance of evidence* standard.¹⁸

Within 10 school business days after receiving the Superintendent's decision, the Complainant or the accused may appeal the decision to the Board by making a written request to the Complaint Manager. The Complaint Manager shall promptly forward all materials relative to the complaint and appeal to the Board.

Within 30 school business days after an appeal of the Superintendent's decision, the Board shall affirm, reverse, or amend the Superintendent's decision or direct the Superintendent to gather additional information. Within five school business days after the Board's decision, the Superintendent shall inform the Complainant and the accused of the Board's action.

For complaints containing allegations involving the Superintendent or Board member(s), within 30 school business days after receiving the Complaint Manager's or outside investigator's report, the Board shall mail its written decision to the Complainant and the accused by ~~first class U.S. mail~~ registered mail, return receipt requested, and/or personal delivery¹⁹ as well as to the Complaint Manager.

This policy shall not be construed to create an independent right to a hearing before the Superintendent or Board. The failure to strictly follow the timelines in this grievance procedure shall not prejudice any party.²⁰

Appointing a Nondiscrimination Coordinator and Complaint Managers²¹

The Superintendent shall appoint a Nondiscrimination Coordinator to manage the District's efforts to provide equal opportunity employment and educational opportunities and prohibit the harassment of

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

¹⁷ Optional; using a delivery method that allows the district to verify the date of receipt is a best practice.

¹⁸ *Preponderance of evidence* is a standard used in civil cases. It means "the greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force." See *Black's Law Dictionary, 11th ed. 2019.*

¹⁹ See fn 17, above.

²⁰ The Ill. sex equity regulations require districts to have "specific timelines for completion of each step and rendering of a written decision, and shall provide for final appeal of grievance decisions made at the system level to the system's governing board." 23 Ill.Admin.Code §200.40(c)(1). To avoid arguments over these timelines, this sample policy provides that the failure to strictly follow the timelines does not prejudice any party. The grievance procedure is worthless if complaints are not thoroughly and promptly investigated.

²¹ Title IX regulations require districts to designate and authorize at least one employee to coordinate efforts to comply with Title IX and to refer to that employee as the *Title IX Coordinator*. 34 C.F.R. §106.8(a). Districts must identify the Title IX coordinator by name, office address, email address, and telephone number. Id.

A district must prominently display its Title IX non-discrimination policies (this policy 2:260, *Uniform Grievance Procedure*, and sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*) and contact information for its Title

employees, students, and others. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator. ²²

The Superintendent shall appoint at least one Complaint Manager to administer this policy. If possible, the Superintendent will appoint two Complaint Managers, one of each gender. The District's Nondiscrimination Coordinator may be appointed as one of the Complaint Managers.

The Superintendent shall insert into this policy and keep current the names, office addresses, email addresses, and telephone numbers of the Nondiscrimination Coordinator and the Complaint Managers. ²³

Nondiscrimination Coordinator:

Name

Address

Email

Telephone

Complaint Managers:

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

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted. IX coordinator(s) on its website, if any, and in each handbook made available to students, applicants for employment, parents/guardians, employees, and collective bargaining units. 34 C.F.R. §106.8(a) and (b). Notifications must state that nondiscrimination extends to employment, and that inquiries about the application of Title IX and its regulations may be referred to the district's Title IX coordinator, to the U.S. Dept. of Education's Assistant Secretary of Education, or both. 34 C.F.R. §106.8(b). See sample exhibit 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

²² The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete "~~The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.~~" insert a hard return to create a new paragraph, and insert "The Superintendent shall appoint a Title IX Coordinator to coordinate the District's efforts to comply with Title IX." Then, list the Title IX and Nondiscrimination Coordinators' names and contact information separately in this policy.

Best practice is that throughout the board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

²³ The board may include the following option to address publication of such contact information:

"The Superintendent or designee shall ensure that students, parents/guardians, employees, and members of the community are informed of the contact information for the District's Nondiscrimination Coordinator and Complaint Managers on an annual basis."

Publicizing the contact information for the Nondiscrimination Coordinator and Complaint Managers through personnel handbooks, student handbooks, and/or on the district's website is a best practice. The Illinois Principals Association (IPA) maintains a handbook service that coordinates with PRESS material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook.

Telephone

Telephone

DRAFT

LEGAL REF.: 8 U.S.C. §1324a et seq., Immigration Reform and Control Act.
20 U.S.C. §1232g, Family Education Rights Privacy Act.
20 U.S.C. §1400, The Individuals with Disabilities Education Act.
20 U.S.C. §1681 et seq., Title IX of the Education Amendments; 34 C.F.R. Part 106.
~~29 U.S.C. §206(d), Equal Pay Act.~~ Age Discrimination in Employment Act.
29 U.S.C. §621 et seq., Age Discrimination in Employment Act.
29 U.S.C. §791 et seq., Rehabilitation Act of 1973.
29 U.S.C. §2612, Family and Medical Leave Act.
42 U.S.C. §2000d et seq., Title VI of the Civil Rights Act.
42 U.S.C. §2000e et seq., Equal Employment Opportunities Act (Title VII of the
Civil Rights Act).
42 U.S.C. §2000ff et seq., Genetic Information Nondiscrimination Act.
42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.
~~Americans With Disabilities Act, 42 U.S.C. §12101 et seq., Americans With~~
~~Disabilities Act.~~
~~Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C.~~
~~§2000e et seq.~~
~~Equal Pay Act, 29 U.S.C. §206(d).~~
~~Immigration Reform and Control Act, 8 U.S.C. §1324a et seq.~~
105 ILCS 5/2-3, 8, 5/3-10, 5/10-20, 5/10-20.5, 5/10-20.7a, 5/10-20.60, 5/10-20.69
5/10-20.75 (final citation pending), 5/10-22.5, 5/22-19, 5/24-4, 5/27-1, 5/27-
23.7, and 45/1-15.
5 ILCS 415/10(a)(2), Government Severance Pay Act.
5 ILCS 430/70-5(a), State Officials and Employees Ethics Act.
~~Illinois Genetic Information Privacy Act, 410 ILCS 513/, Ill. Genetic Information~~
~~Privacy Act.~~
~~Illinois Whistleblower Act, 740 ILCS 174/, Whistleblower Act.~~
~~740 ILCS 175/, Ill. False Claims Act.~~
~~Illinois Human Rights Act, 775 ILCS 5/, Ill. Human Rights Act.~~
~~Victims' Economic Security and Safety Act, 820 ILCS 180/, Victims' Economic~~
~~Security and Safety Act; 56 Ill.Admin.Code Part 280.~~
~~Equal Pay Act of 2003, 820 ILCS 112/, Equal Pay Act of 2003.~~
~~Employee Credit Privacy Act, 820 ILCS 70/, Employee Credit Privacy Act,~~
~~70/10(b), and 70/25-~~
~~23 Ill.Admin.Code §§1.240, -and-200.40, 226.50, and 226.570.~~


CROSS REF.: 2:105 (Ethics and Gift Ban), 2:265 (Title IX Sexual Harassment Grievance Procedure), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 5:90 (Abused and Neglected Child Reporting), 6:120 (Education of Children with Disabilities), 6:140 (Education of Homeless Children), 6:170 (Title I Programs), 6:260 (Complaints About Curriculum, Instructional Materials, and Programs), 7:10 (Equal Educational Opportunities), 7:15 (Student and Family Privacy Rights), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:310 (Restrictions on Publications; Elementary Schools), 7:315 (Restrictions on Publications; High Schools), 8:70 (Accommodating Individuals with Disabilities), 8:95 (Parental Involvement), 8:110 (Public Suggestions and Concerns)

12. First Reading of Revised Board of Education Policies for Section 3 General School Administration

73

Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policies for General School Administration Sections 3:50 - Administrative Personnel Other Than the Superintendent, and 3:60 - Administrative Responsibility of the Building Principal. **See Attachment No. 10.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services 

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policies for Section 3, General School Administration

Reason for Board Consideration: The Board of Education approves updated Board Policy.

Action Necessary: That the Board of Education approve the updated Board Policies.


Facts: In the continuing quest to update the District's Board Policies, attached are a portion of Section 3 with suggested changes based on PRESS recommendations. Administration is requesting the Board accept updates for Section 3, General School Administration, which are minor in stylistics, footnote or reference changes. Recall the underlined text represents suggested new additions; whereas, the ~~striketrough~~ text represents suggested deletions.

Based on PRESS recommendation and administration review, it is the recommendation of administration that the Board of Education accept for first reading revised Board of Education Policies for School Board Sections 3:50 Administrative Personnel Other Than the Superintendent, and 3:60, Administrative Responsibility of the Building Principal.

Cost: None.

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policies for School Board Sections 3:50 Administrative Personnel Other Than the Superintendent, and 3:60, Administrative Responsibility of the Building Principal.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

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

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 Ill. State Board of Education (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 Sch. Bd. Dist.*, 261 Ill.App.3d 298 (3rd. Dist. 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.

Evaluation

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

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

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.

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. 101-85, eff. 1-1-20, 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. 105 ILCS 5/24-3.

⁶ Legal holidays are provided by 105 ILCS 5/24-2, amended by P.A.s 101-642 (2020 Election Day), 102-15 (2022 Election Day), and 102-14, eff. 1-1-22, and 102-334, (both establishing Juneteenth National Freedom Day).

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 Consol. Sch. Dist. v. TRS, 984 N.E.2d 66 (4th Dist. 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 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 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.

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

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), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:30 (Hiring Process and Criteria), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:150 (Personnel Records), 5:210 (Resignations), 5:250 (Leaves of Absence), 5:290 (Employment Termination and Suspensions)

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

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."

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.

General School Administration

Administrative Responsibility of the Building Principal 1

Duties and Authority

The School Board, upon the recommendation of the Superintendent, employs Building Principals as the chief administrators and instructional leaders of their assigned schools, and may employ Assistant Principals. The primary responsibility of a Building Principal is the improvement of instruction.² Each Building Principal shall perform all duties as described in State law as well as such other duties as specified in his or her employment agreement or as the Superintendent may assign, that are consistent with the Building Principal’s education and training.³ Each Building Principal and Assistant Principal shall complete State law requirements to be a prequalified evaluator before conducting an evaluation of a teacher or assistant principal. ⁴

Evaluation Plan

The Superintendent or designee shall implement an evaluation plan for Principals and Assistant Principals that complies with Section 24A-15 of the School Code and relevant Illinois State Board of

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 Required by 105 ILCS 5/10-21.4a.

³ An alternative follows: “...or as agreed upon by the Building Principal and Superintendent.”

The principal’s duties are generally described in 105 ILCS 5/10-21.4a and 5/24A-15(c-5). However, many other statutes impose additional duties, e.g., 105 ILCS 127/2 (requires principals to report to the police certain violations of the Cannabis Control Act, Controlled Substance Act, and Methamphetamine Control and Community Protection Act occurring at specified locations); 105 ILCS 5/10-27.1A(b) (requires the principal or designee to immediately notify local law enforcement upon receiving a report of a person in possession of a firearm on school grounds, and, if that person is a student, to notify a student’s parent/guardian); and 730 ILCS 152/ and 154/ (require notification to parents/guardians that information about sex offenders and violent offenders against youth is available). The county clerk may appoint high school principals or their designees as deputy registrars to accept voter registrations of any qualified resident of the State. 10 ILCS 5/4-6.2(a), amended by P.A. 100-1027. The Firearm Concealed Carry Act requires a principal to notify the Ill. Dept. of State Police whenever he or she determines that a student (or any person) poses a “clear and present danger to himself, herself or to others.” 430 ILCS 66/105; 405 ILCS 5/6-103.3. Lawyers disagree whether this requirement violates the federal Family Educational Rights and Privacy Act. Contact the board attorney for advice.

⁴ This restates 105 ILCS 5/24A-3 and 23 Ill.Admin.Code Part 50, Subpart E. Individuals who evaluate teachers, principals, or assistant principals must: (1) be prequalified, and (2) participate in a regularly scheduled retraining program. The prequalification and retraining programs must be either developed or approved by the Ill. State Board of Education (ISBE).

105 ILCS 5/24A-5 permits a first-year principal to evaluate a teacher; however, a new two-year evaluation plan must be established for any tenured teacher who is evaluated by a first-year principal. 105 ILCS 5/24A-5.

Anyone who has not previously been a principal in Ill. must participate in ISBE’s *new principal mentoring program*; however, implementation of a principal mentoring program in any given year is dependent upon an appropriation. If appropriations are not likely sufficient to serve all anticipated first year principals in any given year, the program is voluntary. Mentoring services are extended to second year principals only if appropriations are sufficient to serve all first year principals. If mentoring services are extended to second year principals but appropriations are not sufficient to serve all second year principals who wish to participate in the new principal mentoring program, then priority access to mentoring services is provided to second year principals who are in the highest need schools as determined by the State Superintendent of Education. 105 ILCS 5/2-3.53a, amended by P.A. 102-521 (adding, subject to annual appropriation, a competitive grant program to support the new principal mentoring program for districts to participate in); 23 Ill.Admin.Code Part 35. Annually by June 1, each superintendent must report to the State Superintendent or designee the expected number of first-year and second-year principals along with information specified in 23 Ill.Admin.Code §35.20.

Education rules.⁵ Using that plan, the Superintendent or designee shall evaluate each Building Principal and Assistant Principal.⁶ The Superintendent or designee may conduct additional evaluations.

Qualifications and Other Terms and Conditions of Employment

Qualifications and other terms and conditions of employment are found in Board policy 3:50, *Administrative Personnel Other Than the Superintendent*.

LEGAL REF.: ~~10 ILCS 5/4-6.2.~~
105 ILCS 5/2-3.53a, 5/10-20.14, 5/10-21.4a, 5/10-23.8a, 5/10-23.8b, and 5/24A-15.
10 ILCS 5/4-6.2. Election Code.
105 ILCS 127/, School Reporting of Drug Violations Act.
23 Ill.Admin.Code Parts 35 and 50, Subpart D.

CROSS REF.: 3:50 (Administrative Personnel Other Than the Superintendent), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:150 (Personnel Records), 5:210 (Resignations), 5:250 (Leaves of Absence), 5:290 (Employment Termination and Suspensions)

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

⁵ 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. A board may substitute this alternative for the first sentence: "The Superintendent or designee shall implement a principal and assistant principal evaluation plan that complies with State law." 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.

⁶ Required by 105 ILCS 5/10-21.4a and 5/24A-15. For a principal who also serves as the district superintendent, the evaluator must be appointed by the school and not be the person whose performance as principal is being evaluated. 23 Ill.Admin.Code §50.300. In addition, the evaluator must hold a valid professional educator license endorsed for superintendent issued under Article 21B and have completed the prequalification process and any retraining, as applicable. Add this option if appropriate: "...or, in the absence of the Superintendent or his or her designee, an individual appointed by the School Board who holds a valid professional educator license endorsed for superintendent."

13. First Reading of Revised Board of Education Policy 3:40 - Superintendent

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Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policy for Section 3:40 - Superintendent, as presented. **See Attachment No. 11.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policy 3:40 - Superintendent



Reason for Board Consideration: The Board of Education approves updated Board Policy.

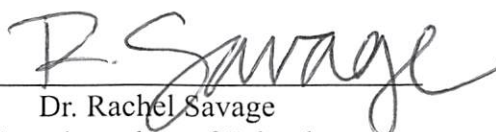
Action Necessary: That the Board of Education approve the updated Board Policy

Facts: In the continuing quest to update the District's Board Policies, attached is Board Policy 3:40 - Superintendent, which was included as part of the November 2021 PRESS update review. This policy is updated in response to P.A. 102-552, the General Assembly's focus on resolving Educator Misconduct. Specifically, 3:40 clarifies the Superintendent's special reporting responsibilities in policy 5:90 - Abused and Neglected Child Reporting, pursuant to 105 ILCS 5/10-21.9 (e-5). Legal References, Cross References and footnotes are also updated to align with the change.

Cost: None

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy 3:40 - Superintendent

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

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 including the special reporting responsibilities in policy 5:90, *Abused and Neglected Child Reporting*.³ 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.⁴

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

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. 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, Ill. State Board of Education (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 Sec 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.

³ 105 ILCS 5/10-21.9(e-5), amended by P.A.102-552. See the discussion in the Ens tied to the text of the *Special Superintendent Responsibilities* subhead in policy 5:90, *Abused and Neglected Child Reporting*.

⁴ This paragraph strengthens the policy's connection to the IASB's *Foundational Principles of Effective Governance*. See www.iasb.com/principles.cfm. It allows the superintendent broad delegation authority even when a policy fails to specifically provide for delegation.

Professional Educator License with a superintendent endorsement issued by the Illinois State Educator Preparation and Licensure Board.⁵

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 State law, the Board's policies and the Superintendent's contract.⁶ 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.⁷

Compensation and Benefits⁸

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.

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

⁵ 105 ILCS 5/21B-20 and 5/21B-25 govern Professional Educator Licenses and superintendent endorsements. See also 23 Ill.Admin.Code §§25.355 (superintendent endorsement) and 29.100 (Ill. Professional School Leader Standards).

⁶ 105 ILCS 5/10-16.7 requires a board to evaluate the superintendent. See *The Superintendent Evaluation Process* at: www.iasb.com/training/superintendent-evaluation-process.pdf. 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.

⁷ 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.

⁸ 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 3:40-E, *Checklist for the Superintendent Employment Contract Negotiation Process*. 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. Bd. of Educ. of Schaumburg Community. Consolidated Sch. Dist. No. 54 v. TRS, 368 Ill.Dec. 341 (4th Dist. 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 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 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.

LEGAL REF.: 105 ILCS 5/10-16.7, 5/10-20.47, 5/10-21.4, 5/10-21.9, 5/10-23.8, 5/21B-20, 5/21B-25, 5/24-11, and 5/24A-3.
5 ILCS 120/7.3, Open Meetings Act.
23 Ill.Admin.Code §§1.310, 1.705, and 25.355.

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), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 4:175 (Convicted Child Sex Offender: Screening; Notifications), 5:30 (Hiring Process and Criteria), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:150 (Personnel Records), 5:210 (Resignations), 5:290 (Employment Termination and Suspensions)

DRAFT

14. First Reading of Revised Board of Education Policies for Section 5 General Personnel

85

Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policies for General Personnel Sections 5:210 - Resignations, 5:220 - Substitute Teachers, and 5:260 - Student Teachers. **See Attachment No. 12.**

TO: Members of the Board of Education

FROM: Todd DeTaeye, Assistant Superintendent for Administration and Human Resources *td*

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policies for Section 5 General Personnel

Reason for Board Consideration: The Board of Education approves updated Board Policy.

Action Necessary: That the Board of Education approve the updated Board Policies.


Facts: In the continuing quest to update the District's Board Policies, attached are a portion of Section 5 with suggested changes based on PRESS recommendations. Administration is requesting the Board accept updates for Section 5, General Personnel which are minor in stylistics, footnote or reference changes. Recall the underlined text represents suggested new additions; whereas, the strikethrough text represents suggested deletions.

Based on PRESS recommendation and administration review, it is the recommendation of administration that the Board of Education accept for first reading revised Board of Education policies for General Personnel 5:210 Resignations, 5:220 Substitute Teachers, and 5:260 Student Teachers.

Cost: None.

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policies for General Personnel Sections 5:210 - Resignations, 5:220 - Substitute Teachers, and 5:260 - Student Teachers.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

Professional Personnel

Resignations 1

Tenured teachers may resign at any time with consent of the School Board or by written notice sent to the Board Secretary at least 30 days before the intended date of resignation. However, no teacher may resign during the school term in order to accept another teaching position without the consent of the Board. 2

LEGAL REF.: 105 ILCS 5/24-14, Park Forest Heights School Dist. v. State Teacher Certification Bd., 842 N.E.2d 4230363, Ill. App. 3d 433 (Ill. App. 1st Dist. 2006).

Commented [DJ1]: LR style change only, no board action required.

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 Districts may want to add a liquidated damages clause to individual teacher contracts in order to discourage teacher resignations in violation of this policy and law.

The term *school term* is undefined in 105 ILCS 5/24-14. There have been occasions where a regional superintendent has interpreted the school term to begin on a teacher institute day, rather than a student attendance day. A teacher who resigns during the school term, without the board's permission, in order to accept another teaching assignment may be referred by the board to the State Superintendent of Education, who shall convene an informal evidentiary hearing within 90 days after receipt of a resolution by the board, 105 ILCS 5/24-14, amended by P.A.s 100-531 and 102-552. The referral to the State Superintendent must contain: (1) a dated copy of the teacher's resignation letter; (2) a copy of the reporting district's current school year calendar; (3) proof of employment for the school year at issue; (4) documentation showing that the board did not accept the teacher's resignation; and (5) evidence that the teacher left the district in order to accept another teaching assignment. *Id.* A teacher found guilty of resigning during the school term to accept another teaching position without board consent will have his or her license suspended for one calendar year. *Id.* In lieu of a hearing and finding, the teacher may agree to a lesser licensure sanction at the discretion of the State Superintendent. *Id.* See also Park Forest Heights School Dist. v. State Teacher Certification Bd., 842 N.E.2d 4230363, Ill. App. 3d 433 (Ill. App. 1st Dist. 2006) (regional superintendent may suspend for one year the teaching certificate of a tenured or nontenured teacher who resigns to accept another position).

For further guidance, see Ill. State Board of Education non-regulatory guidance on the *Application of Section 24-14 of the Illinois School Code to Teacher Resignations* (10-28-19) at: www.isbe.net/Documents/section-24-14-guidance.pdf.

Professional Personnel

Substitute Teachers 1

The Superintendent may employ substitute teachers as necessary to replace teachers who are temporarily absent.

A substitute teacher must hold either a valid teaching or substitute license or short-term substitute license and may teach in the place of a licensed teacher who is under contract with the Board.² There is no limit on the number of days that a substitute teacher may teach in the District during the school year, except as follows:³

1. A substitute teacher holding a substitute license may teach for any one licensed teacher under contract with the District only for a period not to exceed 90 paid school days in any one school term.
2. A teacher holding a Professional Educator License⁴ or Educator License with Stipulations⁵ may teach for any one licensed teacher under contract with the District only for a period not to exceed 120 paid school days.
3. A short-term substitute teacher holding a short-term substitute teaching license may teach for any one licensed teacher under contract with the District only for a period not to exceed five consecutive school days.⁶

The Illinois Teachers' Retirement System (TRS) limits a substitute teacher who is a TRS annuitant to substitute teaching for a period not to exceed 120 paid days or 600 paid hours in each school year, but not more than 100 paid days in the same classroom. Beginning July 1, 2023+, a substitute teacher

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. Policy 5:30, *Hiring Process and Criteria*, contains the requirements for pre-employment investigations, e.g., a fingerprint based criminal history records check. See also 5:30-AP2, *Investigations*. Each board may require new substitute teacher employees to furnish evidence of physical fitness to perform duties assigned and must require new substitute teacher employees to furnish evidence of freedom from communicable disease. 105 ILCS 5/24-5(b-5) added by P.A. 100-855. Evidence may consist of a physical examination, which must be performed within 90 days before the time it is presented to the board, and the substitute teacher bears the cost of the physical examination. *Id.* A new or existing substitute teacher may also be subject to additional health examinations as required by the Ill. Dept. of Public Health or by order of a local public health official. *Id.*

² 23 Ill.Admin.Code §1.790(a)(2), requires that any individual who serves as a substitute teacher for driver's education be endorsed for driver's education pursuant to 23 Ill.Admin.Code §25.100(k). 23 Ill.Admin.Code §25.100(k) has been renumbered as 23 Ill.Admin.Code §25.100(h), however §1.790(a)(2) still cites to §25.100(k).

³ Substitute teaching licenses are governed by 105 ILCS 5/21B-20(3), amended by P.A. 100-596; 23 Ill.Admin.Code §§1.790 and 25.520.

⁴ Professional educator licenses are governed by 105 ILCS 5/21B-20(1) and 23 Ill.Admin.Code Part 25.

⁵ Educator licenses with stipulations are governed by 105 ILCS 5/21B-20(2), amended by P.A. 101-594/100-596, and 23 Ill.Admin.Code Part 25. 105 ILCS 5/21B-20(2)(E), amended by P.A. 100-13, permits an individual who holds a valid career and technical educator endorsement on an Educator License with Stipulations but who does not hold a bachelor's degree to substitute teach in career and technical education classrooms. Similarly, 105 ILCS 5/21B-20(2)(F), amended by P.A. 100-13, permits an individual who holds a provisional or part-time provisional career and technical educator endorsement on an Educator License with Stipulations but who does not hold a bachelor's degree to substitute teach in career and technical education classrooms.

⁶ 105 ILCS 5/21B-20(4), added by P.A. 100-596. Districts may not hire a short-term substitute teacher for teacher absences lasting six or more days. *Id.*

who is a TRS annuitant may substitute teach for a period not to exceed 100 paid days or 500 paid hours in any school year, unless the subject area is one where the Regional Superintendent has certified that a personnel shortage exists. ⁷

The School Board establishes a daily rate of pay for substitute teachers. Substitute teachers receive only monetary compensation for time worked and no other benefits. ⁸

Short-Term Substitute Teachers ⁹

A short-term substitute teacher must hold a valid short-term substitute teaching license and have completed the District's short-term substitute teacher training program. ¹⁰ Short-term substitutes may teach no more than five consecutive school days for each licensed teacher who is under contract with the Board. ¹¹

Emergency Situations ¹²

A substitute teacher may teach when no licensed teacher is under contract with the Board if the District has an emergency situation as defined in State law. During an emergency situation, a substitute teacher is limited to 30 calendar days of employment per each vacant position. The Superintendent shall notify the appropriate Regional Office of Education within five business days after the employment of a substitute teacher in an emergency situation.

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

⁷ 40 ILCS 5/16-118, amended by P.A.s 100-596 and 101-645 (specifying permissible paid days and hours for TRS annuitants) and 102-537, and 16-150.1, amended by P.A.s 101-49 and 102-440 (TRS annuitants may return to teaching in a subject shortage area until 6-30-24). Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center."

⁸ If a board provides substitute teachers other benefits, it may consider listing them here.

⁹ 105 ILCS 5/21B-20(4), added by P.A. 100-596, governs Short-Term Substitute Teaching Licenses, which may be issued from 7-1-18 until 6-30-23. Short-Term Substitute Teaching Licenses are not eligible for endorsements. *Id.* Applicants for a Short-Term Substitute Teaching License must hold an associate's degree or have completed at least 60 credit hours from a regionally accredited institution of higher education. Individuals who have had their Professional Educator License or Educator License with Stipulations suspended or revoked are not eligible to be short-term substitutes. *Id.* Short-term substitutes may not be hired for teacher absences lasting six or more days. *Id.* 105 ILCS 5/21B-20(4) repeals on 7-1-23.

¹⁰ 105 ILCS 5/10-20.678, added by P.A. 100-596, requires boards to conduct this training. This requirement 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 a short-term substitute teacher training program that provides individuals who hold a Short-Term Substitute Teaching License with information on curriculum, classroom management techniques, school safety, and district and building operations. See also 5:220-AP, *Substitute Teachers*, and f/n 3 in 5:220-AP. These expectations will be most effective when they reflect local conditions and circumstances. Training and curriculum for a short-term substitute teacher training program may be subjects of mandatory collective bargaining, therefore consulting with the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing new programs for staff without first offering to negotiate them with the applicable exclusive bargaining representative.

School boards may choose to also offer this training program to individuals who hold a Substitute Teaching License and/or substitute teachers holding a Professional Educator License. This provision repeals on 7-1-23.

¹¹ See f/n 6.

¹² 105 ILCS 5/21B-20(3). An *emergency situation* is defined as one where an unforeseen vacancy has occurred and (i) a teacher is unable to fulfill his or her contractual duties, or (ii) the district's teacher capacity needs exceed previous indications and the district is actively engaged in advertising to hire a fully licensed teacher for the vacant position. *Id.*

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

LEGAL REF.: 105 ILCS 5/10-20.68, 5/21B-20(2), 5/21B-20(3), and 5/21B-20(4).
23 Ill.Admin.Code §1.790 (Substitute Teacher) and §25.520 (Substitute Teaching License).

CROSS REF.: 5:30 (Hiring Process and Criteria)

DRAFT

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 that would subject him or her to license suspension or revocation pursuant to Section 5/21B-80 of the School Code² 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.

Before permitting an individual to student teach or begin a required internship in the District, the Superintendent or designee shall ensure that:³

1. The District performed a *105 ILCS 5/10-21.9(g) 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 5/10-21.9(g) Check* 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

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 applicable collective bargaining agreement(s)."

² 105 ILCS 5/21B-80, amended by P.A.s 101-531 and 102-552. 105 ILCS 5/10-21.9, 5/21B-15, and 5/21B-80(b) 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), amended by P.A. 101-531. A student teacher or individual beginning a required internship must undergo a fingerprint-based State and national criminal history records information check and checks of the Statewide Sex Offender Database and Statewide Murderer and Violent Offender Against Youth Database prior to participating in any field experiences in the school.

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 or clinical experience in the District, . . ." For information about 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-API, *Criminal Offender Notification Laws; Screening*.

⁴ The requirements for physical fitness and freedom from communicable disease apply to student teachers as of 7-16-14. 105 ILCS 5/24-5.

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).

The School Code requires each individual student teaching or beginning a required internship to provide the District with written authorization for, and pay the costs of, his or her 105 ILCS 5/10-21.9(g) 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 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.

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, 5/10-22.34, and 5/24-5.

CROSS REF.: 4:175 (Convicted Child Sex Offender; Screening; Notifications), 5:190 (Teacher Qualifications)

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(g), amended by P.A. 101-531. See also 20 ILCS 2635/7(A)(1).

⁶ 105 ILCS 5/10-21.9(g), amended by P.A. 101-531. As a condition of employment, each school board must consider the status of a person to student teach who has an indicated finding of abuse or neglect of a child by the Ill. Dept. of Children and Family Services under the Abused and Neglected Child Reporting Act or by a child welfare agency of another jurisdiction. See ¶n 6 in 4:175, *Convicted Child Sex Offender; Screening; Notifications*, for further discussion.

⁷ 20 ILCS 2635/7(A)(2). *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/Documents/guidance_chr.pdf.

15. First Reading of Revised Board of Education Policies for Section 6 Instruction

93

Recommended Motion: that the Board of Education accept for first reading the revised Board of Education policies for Sections 6:15 - School Accountability, 6:20 - School Year Calendar and Day, 6:120 - Education of Children with Disabilities, 6:130 - Program for the Gifted, 6:180 - Extended Instruction Programs, 6:220 - Bring Your Own Technology (BYOT) Program; Responsible Use and Conduct, 6:300 - Graduation Requirements, High School Credit for Non-District Experiences, Course Substitutions; Re-Entering Students, 6:310 - High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students, 6:320 - High School Credit for Proficiency, and 6:340 - Student Testing and Assessment Program. **See Attachment No. 13.**

TO: Members of the Board of Education

FROM: Dr. Matt DeBaene, Assistant Superintendent for Secondary Teaching and Learning ^{MD}
Dr. Brian Prybil, Assistant Superintendent for Elementary Teaching and Learning ^{BP}

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policies for Section 6 – Instruction

Reason for Board Consideration: The Board of Education approves updated Board Policy.

Action Necessary: That the Board of Education approve the updated Board Policies.


Facts: In the continuing quest to update the District's Board Policies, attached are a portion of Section 6 with suggested changes based on PRESS recommendations. Administration is requesting the Board accept updates for Section 6.

Attached are the suggested changes based on PRESS recommendations. The administration is requesting the Board accept updates for Sections 6:15, 6:20, 6:120, 6:130, 6:180, 6:220, 6:300, 6:310, 6:320, and 6:340. Recall the underlined text represents suggested new additions; whereas, the ~~strike through~~ text represents suggested deletions.

Cost: None.

Recommended Action: That the Board of Education accept for first reading the revised Board of Education policies for Sections 6:15 - School Accountability, 6:20 - School Year Calendar and Day, 6:120 - Education of Children with Disabilities, 6:130 - Program for the Gifted, 6:180 - Extended Instruction Programs, 6:220 - Bring Your Own Technology (BYOT) Program; Responsible Use and Conduct, 6:300 - Graduation Requirements, High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students, 6:310 - High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students, 6:320 - High School Credit for Proficiency, and 6:340 - Student Testing and Assessment Program.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

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 Ill. State Board of Education (ISBE) 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 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. 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.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.

² 105 ILCS 5/27-1.

³ 23 Ill.Admin.Code §1, Appendix D.

⁴ 105 ILCS 5/2-3.25 - 2-3.25b, amended by P.A. 100-1046; 23 Ill.Admin.Code §§1.10(a) and 1.20.

⁵ 105 ILCS 5/2-3.25a, amended by P.A.s 99-193, 99-657, and 100-1046; 5/2-3.64a-5, amended by P.A.s 100-1046 and 101-643. First, the General Assembly 105 ILCS 5/2-3.25a, amended by P.A. 99-193, significantly revised the system of standards for school districts and schools. Next, it 105 ILCS 5/2-3.25a, amended by P.A. 99-657, delayed certain implementation dates by one school year. Then, it 105 ILCS 5/2-3.25a, amended by P.A. 100-1046, further revised the system of standards for school districts and schools. Annual state assessments required by 105 ILCS 5/2-3.64a-5(c), amended by P.A.s 100-1046 and 101-643, are not required if ISBE receives a waiver from the administration of assessments from the U.S. Dept. of Education. 105 ILCS 5/2-3.64a-5(c), as amended by P.A. 101-643. ISBE must establish recognition standards for student performance and school improvement for all districts and their individual schools, and ISBE must outline accountability measures in its State plan that it submits to the U.S. Dept. of Education under the Every Student Succeeds Act (ESSA) (Pub. L. 114-95). If ESSA ceases to require a state plan, then ISBE must develop a written plan in consultation with the Ill. Balanced Accountability Measure (IBAM) Committee. 105 ILCS 5/2-3.25a, amended by P.A.s 99-193, 99-657, and 100-1046.

3. If applicable, develop District and School Improvement Plans, present them for Board approval, and supervise their implementation. ⁶
4. Prepare a school report card, present it at a regular Board meeting, and disseminate it as provided in State law. ⁷
5. In accordance with 105 ILCS 5/2-3.153, annually administer a climate survey on the instructional environment within the school to, at minimum, students in grades 4 through 12 and teachers. ⁸

LEGAL REF.: 105 ILCS 5/2-3.25, 5/2-3.25a, 5/2-3.25b, 5/2-3.25c, 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, 5/2-3.153, 5/10-17a, 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.

⁶ The requirements around district and school improvement plans are unknown until ISBE revises its rules at 23 Ill.Admin.Code Part 1, Subpart A: Recognition Requirements following P.A.s 99-193 and 100-1046. P.A. 99-193 deleted the requirements concerning improvement plans as well as the sanctions for failing to make adequate yearly progress contained in 105 ILCS 5/2-3.25d, but then P.A. 100-1046 repealed 105 ILCS 5/2-3.25d in its entirety. 105 ILCS 5/2-3.25f(a) continues to state that ISBE “shall provide technical assistance to assist with the development and implementation of School and District Improvement Plans” and 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.”

⁷ 105 ILCS 5/10-17a, amended by P.A.s 100-807, 100-1121, and 101-68, amended by P.A. 102-294, eff. 1-1-22 (data on the number of incidents of violence that occurred on school grounds or during school-related activities and that resulted in an out-of-school suspension, expulsion, or removal to an alternative setting), 102-594, eff. 7-1-22 (the number of teachers who are National Board Certified Teachers, disaggregated by race and ethnicity), and P.A. 102-539 (school report card deliveries delayed until 12-31 in years when the Governor declares a public health emergency).

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. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

⁸ Required by 105 ILCS 5/2-3.153, amended by P.A. 100-1046, and 23 Ill.Admin.Code §1.97. The State Superintendent must publicly report on the survey 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/Pages/5Essentials-Survey.aspx. 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/Pages/5Essentials-Survey.aspx to the State Superintendent on or before a date established by the State Superintendent 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 climate survey of learning conditions instrument.”

Instruction

School Year Calendar and Day 1

School Calendar

The School Board, upon the Superintendent's recommendation and subject to State regulations, annually establishes the dates for opening and closing classes, teacher institutes and in-services, the length and dates of vacations, and the days designated as legal school holidays.² The school calendar shall have a minimum of 185 days to ensure 176 days of actual student attendance.³

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

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

² State-mandated school holidays are found in 105 ILCS 5/24-2, amended by P.A.s 101-642 and 102-15. See policy 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing. The law allows a school board to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on five identified school holidays if: (1) the school board first holds a public hearing on the proposal; and (2) the person or persons honored by the holiday are recognized through instructional activities conducted on the school holiday or on the first school day preceding or following the school holiday. Districts must redo the public hearing process in the event they change plans for use of holidays. See Ill. State Board of Education (ISBE) guidance at: www.isbe.net/Documents/district-holiday-plans13.pdf. This is an item on which collective bargaining may be required, and a board that wishes to implement this law should consult its attorney.

A State mandated school holiday on *Good Friday* is unconstitutional according to *Metz v. Leininger*, 57 F.3d 618 (7th Cir. 1995). Closing school on religious holidays may still be permissible for those districts able to demonstrate, e.g., through surveys, that remaining open would be a waste of educational resources due to 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 all of these options, and collective bargaining implications with their board attorneys.

If the county board or board of election commissioners chooses a school to be a polling place, the school district must make the school available. 10 ILCS 5/11-4.1. For the Election Day, the law encourages a school district to either: (1) close the school; or (2) hold a teachers' institute on that day with the students not in attendance. Id. 40 ILCS 5/2B-40 and 105 ILCS 5/24-2, amended by P.A.s 101-642 and 10 ILCS 5/2A-1.1c, added by P.A. 102-15 and repealing on 1-1-23, required all government offices, with the exception of election authorities, to be closed, unless authorized to be used as a location for election day services or as a polling place for 2020 *General Election Day*, and it required schools to be available to an election authority as a polling place for 2020 *General Election Day* and on 11-8-22 for 2022 *General Election Day*. Id.

³ The school calendar must have a minimum 185 days to ensure 176 days of actual pupil attendance that may include remote learning days, blended remote learning days, and up to five remote and blended remote learning planning days pursuant to 105 ILCS 5/10-30, added by P.A. 101-643. 105 ILCS 5/10-19, amended by P.A.-s: 101-12 and 101-643, and 5/24-1; 23 Ill.Admin.Code § 1.420. See policy 4:180, *Pandemic Preparedness; Management; and Recovery*, for information about remote and/or blended remote learning day plans. Schools must be closed during county institute. 105 ILCS 5/24-3. The school calendar may be a mandatory subject of collective bargaining. The calendar for the school term and any changes must be submitted to and approved by the regional superintendent before the calendar or changes may take effect. 105 ILCS 5/10-19.

E-learning days allow a school district to provide instruction to students electronically while they are not physically present due to inclement weather and other unexpected events. 105 ILCS 5/10-20.56, added by P.A. 101-12 and amended by P.A.s 101-643 and 102-584 (e-learning days allowed when a school is selected as a polling place under the Election Code), opens the use of e-learning days from three pilot districts to all districts that meet the requirements of the statute. Before a school district can implement an e-learning program and use e-learning days it must, along with other requirements (1) hold a public hearing on the initial proposal for the e-learning program, (2) obtain verification from the Regional Office of Education (ROE) or Intermediate Service Center (ISC) for the school district that the initial proposal meets the requirements specified in the law, and (3) by resolution adopt a research-based program for district-wide e-learning days. Before implementing an e-learning program, boards must collectively bargain the impact of the program on the wages, hours, terms and conditions of employment with employee representative(s). More information about e-learning is available at: www.isbe.net/Pages/Electronic-Learning.aspx.

Commemorative Holidays

The teachers and students shall devote a portion of the school day on each commemorative holiday designated in the School Code to study and honor the commemorated person or occasion.⁴ The Board may, from time to time, designate a regular school day as a commemorative holiday.

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⁴ 105 ILCS 5/24-2(c), amended by P.A. 102-411 lists the following as commemorative holidays: Jan. 17 (Muhammad Ali's birthday); Jan. 28 (Christa McAuliffe Day commemorating space exploration); Feb. 15 (Susan B. Anthony's birthday); Mar. 29 (Vietnam War Veterans' Day); Sept. 11 (Sept. 11th Day of Remembrance); the school day immediately preceding Veterans' Day (Korean War Veterans' Day); Oct. 1 (Recycling Day); Oct. 7 (Iraq and Afghanistan Veterans Remembrance Day); and Dec. 7 (Pearl Harbor Veterans' Day).

Other commemorative holidays include, but are not limited to: Arbor and Bird Day on the last Friday in April (105 ILCS 5/27-18); Leif Erickson Day on October 9 if a school day and otherwise on a school day nearest the date (105 ILCS 5/27-19); American Indian Day on the 4th Friday of September (105 ILCS 5/27-20); Ill. Law Week during the first full school week in May (105 ILCS 5/27-20.1); Just Say No Day on a school day in May designated by official proclamation of the Governor (105 ILCS 5/20.2); Ronald Reagan Day on Feb. 6 (5 ILCS 490/2); Barack Obama Day on August 4 (5 ILCS 490/3); Indigenous Peoples Day on the last Monday in September (5 ILCS 490/7); Lincoln's Birthday February 12 (5 ILCS 490/60); Juneteenth National Freedom Day on June 19 each year (5 ILCS 490/63, amended by P.A.s 102-14, eff. 1-1-22 (second to pass both houses and controlling (5 ILCS 70/6)) and 102-334 (first to pass both houses)) – potential conflicts related to celebrating Juneteenth when it falls on a Saturday or Sunday exist, e.g., P.A. 102-14 states “when June nineteenth falls on a Saturday or Sunday, neither the preceding Friday nor the following Monday shall be held or considered as a *paid* holiday” but contrast P.A. 102-334, stating “when June nineteenth falls on a Sunday, the following Monday shall be held and considered the holiday” – notice the word *paid* is missing; consult the board attorney about whether Juneteenth should be celebrated as an *unpaid* holiday on either the preceding Friday or the following Monday when it falls on a Saturday or Sunday, respectively, or not at all when it falls on a Saturday; Martin Luther King, Jr. Birthday the third Monday in January (5 ILCS 490/65); Prairie Week the third full week in September (5 ILCS 490/75); Retired Teachers' Week the fourth week in May (5 ILCS 490/80); Veterans Day November 11 (5 ILCS 490/90); Preventing Lost Potential Day September 19 (5 ILCS 490/141); Day of Remembrance of the Victims of Slavery and the Transatlantic Slave Trade on March 25 (5 ILCS 490/155); the first full week of January is Emancipation Proclamation Week (5 ILCS 490/160); Mother Mary Ann Bickerdyke Day on the second Wednesday in May (5 ILCS 490/175); and April is Arab American Heritage Month (5 ILCS 490/6, amended by P.A. 102-450); and the first full week of April each year is Autism Acceptance Week (5 ILCS 490/137, added by P.A. 102-588).

School Day

The Board establishes the length of the school day with the recommendation of the Superintendent and subject to State law requirements.⁵ The Superintendent or designee shall ensure that observances required by State law are followed during each day of school attendance.⁶

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⁵ A school day is required to consist of a minimum five clock-hours under the direct supervision of a teacher or non-teaching personnel or volunteer personnel that provides non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a), in order to qualify as a full day of attendance, unless (1) the Governor issues a disaster declaration due to a public health emergency pursuant 20 ILCS 3305/7, and (2) the State Superintendent of Education establishes minimum clock-hour requirements to align with the circumstances of the Governor's disaster declaration. 105 ILCS 5/10-19.05, added by P.A. 101-12 and amended by P.A. 101-643. See www.isbe.net/Documents/SB28Instructional-Day.pdf for ISBE's notice regarding this law. See 105 ILCS 5/10-19.05, added by P.A. 101-12, for additional exceptions to the attendance calculation.

Contrast 105 ILCS 5/18-12, amended by P.A. 100-28. It allows a partial day of attendance to be counted as a full day due to an adverse weather condition, condition beyond the control of the school district that poses a health and safety threat, or use of school facilities by local or county authorities for holding a memorial or funeral service in remembrance of a community member (up to two school days per school year) provided one of following conditions is met: (1) the school district has provided at least one hour of instruction prior to the closure of the school district; (2) a school building has provided at least one hour of instruction prior to the closure of the school building; or (3) the normal start time of the school district is delayed. The law also outlines the process to claim attendance prior to providing any instruction when a school district must close a building or buildings, but not the entire district, after consultation with a local emergency response agency or due to a condition beyond the control of the district. Additionally, 105 ILCS 5/18-12.5 outlines the process for claiming attendance when a school district must close a building or buildings, but not the entire district, specifically because of a public health emergency. Attendance for such days may only be claimed if the school building(s) was scheduled to be in operation on those days.

Alternative education programs may provide fewer than five hours under certain circumstances. 105 ILCS 5/2-3.33a and 5/13B-50.

⁶ 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. 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 Bd. of Educ. v. Barnette, 319 U.S. 624 (1943); Sherman v. Community Consol. Sch. 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.

The Silent Reflection and Student Prayer Act mandates a *brief period of silence* for all Illinois public school students at the opening of each school day. 105 ILCS 20/1. A student filed a federal lawsuit challenging the constitutionality of this law under the First Amendment, but the law was ultimately upheld by the Appeals Court. Sherman v. Koch, 623 F.3d 501 (7th Cir. 2010), *cert denied* by 565 U.S. 815 (2011). 105 ILCS 5/10-20.46 requires a moment of silence to recognize veterans during any type of event held at a district school on Nov. 11. See fn 2 above for more discussion.

LEGAL REF.: 105 ILCS 5/10-19, 5/10-19.05, 5/10-20.56, 5/10-24.46, 5/10-30, 5/18-12, 5/18-12.5,
5/24-2, 5/27-3, 5/27-18, 5/27-19, 5/27-20, 5/27-20.1, 5/27-20.2, and 20/1.
10 ILCS 5/11-4.1.
5 ILCS 490/, State Commemorative Dates Act.
23 Ill.Admin.Code §1.420(f).
Metzl v. Leininger, 850 F.Supp. 740 (N.D. Ill. 1994), *aff'd by* 57 F.3d 618 (7th Cir.
1995).

CROSS REF.: 2:20 (Powers and Duties of the School Board; Indemnification), 4:180 (Pandemic
Preparedness; Management; and Recovery), 5:200 (Terms and Conditions of
Employment and Dismissal), 5:330 (Sick Days, Vacation, Holidays, and Leaves),
6:60 (Curriculum Content), 6:70 (Teaching About Religions), 7:90 (Release
During School Hours)

DRAFT

Instruction

Education of Children with Disabilities 1

The School District shall provide a free appropriate public education in the least restrictive environment and necessary related services to all children with disabilities enrolled in the District, as required by the Individuals With Disabilities Education Act (IDEA) and implementing provisions of the School Code, Section 504 of the Rehabilitation Act of 1973, and the Americans With Disabilities Act.² The term *children with disabilities*, as used in this policy, means children between ages 3 and 21 (inclusive)³ for whom it is determined, through definitions and procedures described in the Ill. State Board of Education (ISBE) *Special Education* rules, that special education services are needed. Children with disabilities who turn 22 years old during the school year are eligible for such services through the end of the school year.⁴

It is the intent of the District to ensure that students who are disabled within the definition of Section 504 of the Rehabilitation Act of 1973 are identified, evaluated, and provided with appropriate educational services. Students may be disabled within the meaning of Section 504 of the Rehabilitation Act even though they do not require services pursuant to the IDEA.

For students eligible for services under IDEA, the District shall follow procedures for identification, evaluation, placement, and delivery of services to children with disabilities provided in the ISBE *Special Education* rules. For those students who are not eligible for services under IDEA, but, because of disability as defined by Section 504 of the Rehabilitation Act of 1973, need or are believed to need special instruction or related services, the District shall establish and implement a system of procedural safeguards. The safeguards shall cover students' identification, evaluation, and educational placement. This system shall include notice, an opportunity for the student's parent(s)/guardian(s) to

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¹ State or federal law controls this policy's content. Each school district and special education cooperative must develop written special education policies and procedures in conformance with ISBE rules. 23 Ill.Admin.Code §226.710. In its continuing commitment to help school districts and special education cooperatives comply with ISBE requirements for policy and procedure, the Ill. Council of School Attorneys, special education committee, reviewed this policy and prepared extensive procedures, *Special Education Procedures Assuring the Implementation of Comprehensive Programming for Children with Disabilities*, at: www.iasb.com/law/.

² Opinions vary regarding the extent of a district's responsibility for providing FAPE to dually enrolled students, i.e., whether the responsibility is limited to the extent necessary to access the public portion of their education. Contact the board attorney for advice.

³ 105 ILCS 5/14-6.01 states that high school districts are financially responsible for the education of children with disabilities who reside in their districts when such children reach age 15, but they may admit children with disabilities into special education facilities without regard to graduation from the eighth grade after they reach age 14 ½. When a child with a disability turns 14 ½ years old, it is the elementary school district's responsibility to notify the high school district of the child's current eligibility, program, and evaluation data upon which the current program is based. Id.

For elementary districts, edit ages as follows: ages 3 and 15 ½ (inclusive).

For high school districts, edit ages as follows: ages 3 14 (or has graduated from 8th grade) and 21 (inclusive).

⁴ 105 ILCS 5/14-1.02, amended by P.A. 102-172. Delete this sentence for elementary school districts. IDEA funds cannot be used to provide services for students beyond the age of 21. See ISBE's *Frequently Asked Questions: Public Act 102-0172 and Public Act 102-0173* (July 2021), at www.isbe.net/Documents/FAQ-HB-40-HB-2748.pdf. Consult the board attorney for further guidance.

examine relevant records, an impartial hearing with opportunity for participation by the student's parent(s)/guardian(s), representation by counsel, and a review procedure.⁵

The District may maintain membership in one or more cooperative associations of school districts that shall assist the District in fulfilling its obligations to the District's ~~disabled~~ students with disabilities.

If necessary, students may also be placed in nonpublic special education programs or education facilities.⁶

LEGAL REF.: 20 U.S.C. §1400 et seq., Individuals With Disabilities Education Improvement Act of 2004.
29 U.S.C. §794, Rehabilitation Act of 1973, Section 504.
42 U.S.C. §12101 et seq., Americans With Disabilities Act.
34 C.F.R. Part 106.
34 C.F.R. §Part 300.
105 ILCS 5/14-1.01 et seq., 5/14-7.02, and 5/14-7.02b.
23 Ill.Admin.Code Part 226.

CROSS REF.: 2:150 (Committees), 7:230 (Misconduct by Students with Disabilities)

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⁵ Districts must use ISBE's procedural safeguards for students who qualify for services under IDEA. For students who qualify for services exclusively under Section 504, the district must establish a system of procedural safeguards or use the ones provided by ISBE *Special Education* rules. 23 Ill.Admin.Code §§226.500-570. ISBE rules are more extensive than is required by Section 504 and districts may, as the policy provides, develop their own procedures. See 6:120-API, E1, *Notice to Parents/Guardians Regarding Section 504 Rights*.

⁶ The district may be eligible to receive reimbursement from the State for the student's expenses. 105 ILCS 5/14-7.02.

Instruction

Program for the Gifted 1

The Superintendent or designee shall implement an education program for gifted and talented learners that will challenge and motivate academically advanced learners and engage them in appropriately differentiated learning experiences to develop their unique abilities.² If the State Superintendent of Education issues a Request for Proposals because sufficient State funding is available to support local programs of gifted education, the Superintendent or designee shall inform the Board concerning the feasibility and advisability of developing a “plan for gifted education” that would qualify for State funding.³

Eligibility to participate in the gifted program shall not be conditioned upon race, religion, sex, disability, or any factor other than the student’s identification as gifted or talented learner.⁴

The School Board will monitor this program’s performance by meeting periodically with the Superintendent or designee to determine and/or review the indicators and data that evidence whether the educational program for gifted and talented learners is accomplishing its goals and objectives and is otherwise in compliance with this policy.

LEGAL REF.: 105 ILCS 5/14A.
23 Ill.Admin.Code Part 227.

CROSS REF.: 6:135 (Accelerated Placement Program)

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 to the extent that districts can qualify for State funding for the education of gifted and talented children, should such funding be available. 105 ILCS 5/14A. While a policy on programs for gifted and talented children is not required, a policy on accelerated placement is required. 105 ILCS 5/14A-32, added by P.A. 100-421, eff. 7-1-18 (the Accelerated Placement Act), amended by P.A.s 101-654 and 102-209. See 6:135, *Accelerated Placement Program*, and 6:135-AP, *Accelerated Placement Program Procedures*.

² The goals and objectives of this program may be modified by the board.

³ School districts have the authority and flexibility to design education programs for gifted and talented learners, but these programs must comply with 105 ILCS 5/14A-30 and 23 Ill.Admin.Code Part 227 to qualify for State funding, should such funding become available.

If a board does not wish to tie the gifted program to requirements for State funding, use this alternative:

The Superintendent or designee shall implement an education program for gifted and talented learners that is responsive to student needs and is within the budget parameters as set by the Board.

⁴ 105 ILCS 5/14A-25, amended by P.A. 100-421, eff. 7-1-18.

Instruction

Extended Instructional Programs 1

The District may offer the following programs in accordance with State law and the District's educational philosophy:

1. Nursery schools for children between the ages of 2 and 6 years. ²
2. Before-and after-school programs for students in grades K-6. ³
3. Child care and training center for pre-school children and for students whose parents work. ⁴
4. Model day care services program in cooperation with the State Board of Education. ⁵
5. Tutorial program. ⁶
6. Adult education program. ⁷
7. Outdoor education program. ⁸
8. Summer school, whether for credit or not. ⁹
9. Independent study, whether for credit or not. ¹⁰
10. Support services and instruction for students who are, or whose parents/guardians are, chemically dependent. ¹¹

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. However, all programs listed in this policy are optional. The district may charge a fee for programs numbered 1-4, 6, 8, 9, and 14. ~~Delete the sentences that the board does not offer.~~

² ~~105 ILCS 5/10-23.2. A school district may offer a course on hunting safety as part of its curriculum during the school day or as part of an after-school program. 105 ILCS 5/27-23.13 (final citation pending), added by P.A. 101-152. Unlike the before-and-after-school programs authorized by 105 ILCS 5/10-23.2, no grade levels are specified for the hunting safety course or the after-school program in which it may be offered. 105 ILCS 5/27-23.13 (final citation pending).~~

³ ~~105 ILCS 5/10-22.18b. A school district may offer a course on hunting safety as part of its curriculum during the school day or as part of an after-school program. 105 ILCS 5/27-23.14, added by P.A. 101-152 and renumbered by P.A. 102-558. Unlike the before-and-after-school programs authorized by 105 ILCS 5/10-23.2, no grade levels are specified for the hunting safety course or the after-school program in which it may be offered. Id.~~

⁴ 105 ILCS 5/10-22.18a.

⁵ 105 ILCS 5/10-22.18c. Student parents cannot be charged a fee for such day care services, however school personnel who use the services may be charged a fee. Id.

⁶ 105 ILCS 5/10-22.20c.

⁷ 105 ILCS 5/10-22.20, amended by P.A. 101-289. A school board may appoint a director of adult education. 105 ILCS 5/10-22.20b.

⁸ 105 ILCS 5/10-22.29.

⁹ 105 ILCS 5/10-22.33A and 5/10-22.33B. Each course offered for high school graduation must provide at least 60 hours of classroom instruction for the equivalent of one semester of high school course credit. 105 ILCS 5/27-22.1. 105 ILCS 5/10-22.33B authorizes districts to conduct a *high-quality* summer school program. Students at risk in language arts or mathematics may be required to attend such programs. Section 10-22.33A permits districts "to fix and collect a charge for attendance at such courses in an amount not to exceed the per capita cost of the operation" or to waive such charges if the family of a pupil is indigent or if the pupil is required to attend such courses.

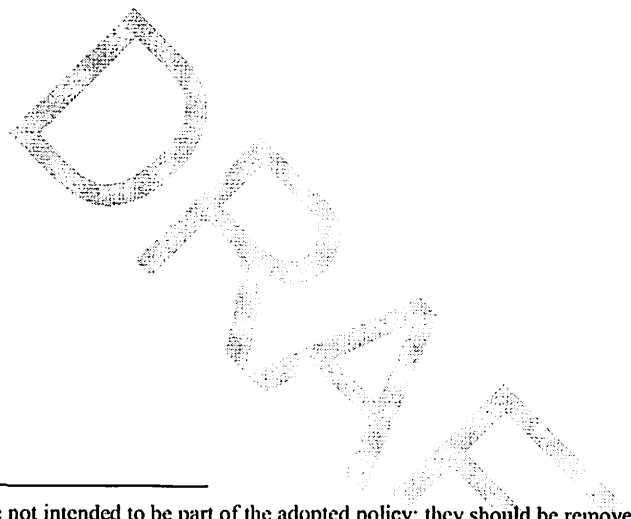
¹⁰ Independent study allows students to expand their knowledge in curricular areas not offered as part of the district's basic program.

¹¹ 105 ILCS 110/3. Such services and instruction may be offered as part of existing curricula during the school day or as part of an after school program. Id.

11. Anti-bias education and activities to address intergroup conflict resolution. ¹²
12. Volunteer service credit program. ¹³
13. Vocational academy. ¹⁴
14. Advanced vocational training and/or career education program. ¹⁵

LEGAL REF.: 105 ILCS 5/10-22.18a, 5/10-22.18b, 5/10-22.18c, 5/10-22.20, 5/10-22.20a, 5/10-22.20b, 5/10-22.20c, 5/10-22.29, 5/10-22.33A, 5/10-22.33B, 5/10-23.2, 5/27-22.1, 5/27-22.3, 5/27-23.6,⁵
105 ILCS 110/3, Comprehensive Health Education Program, and
105 ILCS 433/, Vocational Academies Act.

CROSS REF.: 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students), 6:320 (High School Credit for Proficiency)



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¹² 105 ILCS 5/27-23.6. The statutory objectives of such a program are to “improve intergroup relations on and beyond the school campus, defusing intergroup tensions, and promoting peaceful resolution of conflict.” A board that adopts a policy to incorporate activities to address anti-bias education and intergroup conflict resolution shall make certain information available to the public and shall disseminate it as specified in the statute include it on the district’s website, if any, and make it available in the district’s offices upon request. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Districts may also include the information in a student handbook and in district newsletters. ~~105 ILCS 5/27-23.6(e).~~ The Ill. Principals Association (IPA) maintains a handbook service that coordinates with PRESS material, Online Model Student Handbook (MSH), at: www.ilprincipals.org/resources/model-student-handbook.

See also *f/n 23 in sample policy 6:60, Curriculum Content*, and ensure that these policies align. Consult the board attorney if the district wishes to offer intergroup conflict resolution separately from anti-bias education; it is unclear whether these topics may be offered separately because the law lists them together.

¹³ 105 ILCS 5/27-22.3. For secondary school students only. *Id.*

¹⁴ 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 2-year school within a school for grades 10 through 12. Grant funds may be available from ISBE at: www.isbe.net/Pages/Grants.aspx.

¹⁵ 105 ILCS 5/10-22.20a, permits districts to enter joint agreements with community college districts and other school districts to provide career education or advanced vocational training to students in grade 11 and higher to prepare for a trade. The duration of such program may not exceed two years for any district pupil. Participating community colleges may bill participating districts, but payments may not exceed actual operating costs. Participating high schools may use State aid monies to pay the charges. *Id.*

Instruction

Bring Your Own Technology (BYOT) Program; Responsible Use and Conduct 1

The Superintendent or designee shall establish a *Bring Your Own Technology (BYOT) Program*. The program will: ²

1. Promote educational excellence by facilitating resource sharing, innovation, and communication to enhance (a) technology use skills; (b) web-literacy and critical thinking skills about Internet resources and materials, including making wise choices; and (c) habits for responsible digital citizenship required in the 21st century. ³
2. Provide sufficient wireless infrastructure within budget parameters. ⁴
3. Provide access to the Internet only through the District's electronic networks. ⁵
4. Identify approved BYOT devices and what District-owned technology devices may be available; e.g., laptops, tablet devices, E-readers, and/or smartphones.
5. Align with Board policies 4:140, *Waiver of Student Fees*; 5:120, *Employee Ethics: Conduct and Conflict of Interest*; 5:125, *Personal Technology and Social Media; Usage and Conduct*; 5:170, *Copyright*; 6:120, *Education of Children with Disabilities*; 6:235, *Access to Electronic Networks*; 7:140, *Search and Seizure*; 7:180, *Prevention of and Response to Bullying*,

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¹ This policy is optional. It concerns an area in which the law is unsettled. 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. Consult the board attorney and the district's information technology professional(s) for advice to create a legally sound program that fits your district's mission statement for instruction.

² Customize paragraphs 1-8 to reflect the how the program will align with the board's mission statement for instruction and goals for its program.

³ 105 ILCS 5/27-13.3 and 47 C.F.R. §-54.520(c)(1)(i) require Internet safety instruction. See f/n ²⁴⁴⁶ in 6:60, *Curriculum Content* for more discussion.

⁴ Districts may want to consider a *guest network*, similar to what hotels and other service industry hosts provide to their customers. This can protect a district's network from malicious software, which is discussed in f/n 5 below.

⁵ Care must be taken to comply with the Children's Internet Protection Act (CIPA) (47 U.S.C. §254). CIPA requires the district to provide content filters, blocking lists, or district monitoring of Internet website traffic for patterns of usage that could indicate inappropriate network usage. While a program using district-owned technology devices is always subject to the district's electronic network rules, a BYOT program creates the possibility for students to bypass the district's electronic network and access the Internet through their own wireless providers' signals. This *bypass* complicates a district's duty under CIPA because it cannot guarantee students use its electronic network; preventing bypassing is hard for school officials to control.

Consult the board attorney about managing CIPA compliance issues in the context of a BYOT program. This sample policy is conservative, and it requires that CIPA govern the use of any BYOT device's Internet access capability while the device is at school. If the board will allow a student to bypass the district's electronic network and access his or her wireless providers' signals, consult the board attorney.

Care must also be taken to reduce the electronic network's vulnerability to malicious viruses and malware. Malicious viruses and malware are increasingly being targeted to smartphone users. This is evidenced by the Federal Trade Commission (FTC) filing lawsuits around the country accusing companies of ordering or engineering the sending of hundreds of millions of spam text messages to mobile phone users. The district may want to require students to ensure their BYOT devices contain an anti-virus and/or anti-malware software product. While many of these software products are free, some are not. Requiring all BYOT devices to have this type of software presents equity issues between students because it may require parents/guardians to spend funds to participate (see the discussion in f/n 6 below).

Intimidation, and Harassment; 7:190, Student Behavior; and 7:340, Student Records; and 7:345, Use of Educational Technologies; Student Data Privacy and Security. 6

6. Provide relevant staff members with BYOT professional development opportunities, including the provision of:
 - 7
 - a. Classroom management information about issues associated with the program, e.g., technical support, responsible use, etc.;
 - b. A copy of or access to this policy and any building-specific rules for the program;
 - c. Additional training, if necessary, about 5:170, *Copyright*; and

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6 A BYOT program must continue to follow established policies. Boards may use this alternative, "Align with established Board policies."

Managing the following issues may require a consultation with the board attorney:

1. 4:140, *Waiver of Student Fees*, needs examination because most BYOT programs require parents/guardians to spend funds to participate. 105 ILCS 5/10-20.13 requires districts, at a minimum, to waive charges for textbooks and other fees for children whose families are unable to afford them. See also policy 6:210, *Instructional Materials*, stating that district classrooms and learning centers should be equipped with an evenly-proportioned, wide assortment of instructional materials, including textbooks, workbooks, audio-visual materials, and electronic materials.
2. Management issues concerning 5:125, *Personal Technology and Social Media; Usage and Conduct*, and 5:170, *Copyright* are discussed in f/n 7 and 8 below.
3. 6:120, *Education of Children with Disabilities*, requires consideration for students with disabilities when integrating any technology programs into the educational environment. As with district-provided devices (often referred to as 1:1 technology programs), devices must be accessible to students with disabilities, including those who are blind, have low vision or have a disability that affects their ability to access print information. The use of mobile devices that do not allow a student with a disability to access the instructional materials would be a violation of the student's right under the Individuals With Disabilities Education Act (IDEA) (20 U.S.C. §1400 et seq.).
4. 6:235, *Access to Electronic Networks*, is discussed in f/n 5 above.
5. 7:140, *Search and Seizure*, still applies in a BYOT program. The Fourth Amendment protects individuals from searches only when the person has a legitimate expectation of privacy. However, 105 ILCS 5/10-22.6(e) allows school officials to inspect the personal effects left by a student on property owned or controlled by the school, e.g., lockers, desks, and parking lots. Many cases suggest that to search a student's possessions left in the locker, school officials need individualized suspicion of wrongdoing. Many of the issues re: the search of electronic devices that are discussed in 7:190-AP6, *Guidelines for Investigating Sexting Allegations*, will apply to investigations involving BYOT devices. To minimize mediating with law enforcement for parents/guardians about confiscated devices, districts should distinguish whether they are acting upon their own initiative or need to contact law enforcement. See f/n 5 in policy 7:140, *Search and Seizure*, and the policy's *Seizure of Property* subhead.
6. 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, and 7:190, *Student Behavior*, present similar issues to #3 and #4 above. Students must be aware that traditional expectations for appropriate behavior, and the consequences for inappropriate behavior, apply to a BYOT program.
7. See 7:340, *Student Records*. The law is not clear whether materials created by students participating in a BYOT program through a district's network access are *school student records*.
- 7-8. 7:345, *Use of Educational Technologies; Student Data Privacy and Security*, requires districts to comply with the Student Online Personal Protection Act (SOPPA), 105 ILCS 85/, amended by P.A. 101-516; see also 23 Ill.Admin.Code Part 380. Implementation of a BYOT program does not exempt a district from complying with SOPPA's contractual and security mandates, including implementation and maintenance of reasonable security procedures and practices designed to protect student's covered information. Reasonable security practice guidance adopted by ISBE recommends, in part, that districts create a separate wireless network for personal or untrusted devices. See 7:345 at f/n 11 for more information.

7 See f/n 1 above re: collective bargaining. Moving forward without properly training educators to manage BYOT issues may create pedagogical problems. One option for this training is to incorporate it into the training required during the in-service on educator ethics, teacher-student conduct, and school employee-student conduct required by board policy 5:120, *Employee Ethics; Conduct; and Conflict of Interest*. Many issues involved in BYOT programs intersect with maintenance of appropriate behavior and policy 5:125, *Personal Technology and Social Media; Usage and Conduct*.

- d. Information concerning appropriate behavior of staff members as required by State law and policy 5:120, *Employee Ethics; Conduct; and Conflict of Interest*.⁸
7. Provide a method to inform parents/guardians and students about this policy.
8. Include the program in the annual report to the Board as required under policy 6:10, *Education Philosophy and Objectives*.

The District reserves the right to discontinue its BYOT program at any time. The District does not provide liability protection for BYOT devices, and it is not responsible for any damages to them.

Responsible Use⁹

The District recognizes students participating in the program as responsible young adults and holds high expectations of their conduct in connection with their participation in the program. Teachers may encourage students to bring their own devices as supplemental in-class materials when: (a) using the devices will appropriately enhance, or otherwise illustrate, the subjects being taught; (b) the Building Principal has approved their use and found that their use is age-appropriate; and (c) the student's parent/guardian has signed the *Bring Your Own Technology (BYOT) Program Participation Authorization and Responsible Use Agreement Form*. A student's right to privacy in his or her device is limited; any reasonable suspicion of activities that violate law or Board policies will be treated according to policy 7:140, *Search and Seizure*.

Responsible use in the program incorporates into this policy the individual's *Acceptable Use of Electronic Networks* agreement pursuant to policy 6:235, *Access to Electronic Networks*. Responsible use also incorporates the established usage and conduct rules in policy 5:125, *Personal Technology and Social Media; and Personal Technology; Usage and Conduct*, for staff and 7:190, *Student Behavior*, for students. Failure to follow these rules and the specific BYOT program student guidelines may result in: (a) the loss of access to the District's electronic network and/or student's BYOT privileges; (b) disciplinary action pursuant to 7:190, *Student Behavior*; 7:200, *Suspension Procedures*; or 7:210, *Expulsion Procedures*; and/or (c) appropriate legal action, including referrals of suspected or alleged criminal acts to appropriate law enforcement agencies.

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⁸ 23 Ill.Admin.Code §22.20 and 105 ILCS 5/21B-75, amended by P.A. 102-55299-456.

⁹ This section provides general guidelines. A BYOT program will require a parent/guardian authorization to participate in it and specific guidelines for students. See 6:220-E1, *Authorization to Participate in the Bring Your Own Technology (BYOT) Program; Responsible Use and Conduct Agreement*; 6:220-E2, *Bring Your Own Technology (BYOT) Program Student Guidelines*; and 6:235-E5, *Children's Online Privacy Protection Act*. See f/n 7 and 8 above re: teachers' guidelines. See f/n 1, above discussing how the application of additional guidelines for teachers may have collective bargaining implications.

LEGAL REF.: 15 U.S.C. §§6501-6508, Children's Online Privacy Protection Act, implemented by 16 C.F.R. Part 312, Children's Online Privacy Protection Rule.
20 U.S.C §6751 et seq., Enhancing Education Through Technology Act.
47 U.S.C. §254(h) and (l), Children's Internet Protection Act.
47 C.F.R. Part 54, Subpart F, Universal Service Support for Schools and Libraries.
105 ILCS 5/10-20.28.

CROSS REF.: 1:30 (School District Philosophy), 4:140 (Waiver of Student Fees), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:125 (Personal Technology and Social Media; Usage and Conduct), 5:170 (Copyright), 6:10 (Educational Philosophy and Objectives), 6:40 (Curriculum Development), 6:120 (Education of Children with Disabilities), 6:210 (Instructional Materials), 6:235 (Access to Electronic Networks), 7:140 (Search and Seizure), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:190 (Student Behavior), 7:340 (Student Records)

DRAFT

Instruction

Graduation Requirements 1

To graduate from high school, unless otherwise exempted, each student is responsible for:

1. Completing all District graduation requirements that are in addition to the State requirements. ²
2. Completing all courses as provided in the School Code, 105 ILCS 5/27-22. ³
3. Completing all minimum requirements for graduation as specified in State law. ⁴
4. Passing an examination on patriotism and principles of representative government, proper use of the flag, methods of voting, and the Pledge of Allegiance. ⁵
5. Participating in State assessments that are required for graduation by State law. ⁶

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¹ State or federal law controls this policy's content. Graduation requirements are often published in student handbooks. The Illinois Principals Association maintains a handbook service that coordinates with PRESS material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook.

In accordance with 105 ILCS 5/2-3.159, amended by P.A. 101-503, 23 Ill. Admin. Code §1.442, and 23 Ill. Admin. Code Part 680, a school district may establish a program to recognize high school graduates who attained a high level of proficiency in one or more languages in addition to English by designating on a student's diploma and transcript a State Seal of Bilingualism. See policy 6:320, *High School Credit for Proficiency*.

² Optional. 23 Ill. Admin. Code §1.440(f). A school board should ensure that all district graduation requirements that are in addition to the State requirements are aligned with the district educational objectives. See policy 6:10, *Educational Philosophy and Objectives*.

³ 105 ILCS 5/27-22(e), amended by P.A.s 101-464, 101-654, 102-366, and 102-551, contains the list of required courses in effect through the 2023-2024 school year. 105 ILCS 5/27-22(e-5), added by P.A. 101-654, contains the list of required courses effective beginning with the 2024-2025 school year (to include two years of laboratory science). 105 ILCS 5/27-22(e-10), added by P.A. 101-654, increases the foreign language requirement from one to two years beginning with the 2028-2029 school year. The escalating graduation requirements in 105 ILCS 5/27-22 had timed out and were deleted by P.A. 100-143, such that only the final list of required courses in Section 27-22(e), amended by P.A. 101-464, is applicable. 105 ILCS 5/27-22(e)(3) allows the substitution of an advanced placement computer science course for a year of mathematics, and it further states that a mathematics course that includes geometry content may be offered as an integrated, applied, interdisciplinary, or career and technical education course that prepares a student for a career readiness path. 105 ILCS 5/27-22(e)(5), amended by P.A. 102-366 requires students entering the 9th grade in the 2016-2017 school year and each year thereafter to complete one semester of civics. As part of the two-year social studies requirement, districts may include a financial literacy course that is one semester or part of one semester. *Id.* 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*. The Ill. State Board of Education (ISBE) may adopt rules modifying graduation requirements for students in grades 9-12 if the Governor has declared a disaster due to a public health emergency under 20 ILCS 3305/7. 105 ILCS 5/27-22(i), added by P.A. 101-643.

⁴ 105 ILCS 5/27-22(e), amended by P.A.s 101-464, 101-654, 102-366, and 102-551; 23 Ill. Admin. Code §1.440.

⁵ Required by 105 ILCS 5/27-3, amended by P.A. 101-643.

⁶ 105 ILCS 5/2-3.64a-5(c), amended by P.A.s 100-7, 100-1046, and 101-643, states that "[s]tudents who do not take the State's final accountability assessment or its approved alternate assessment may not receive a regular high school diploma unless the student is exempted." Assessments are not required if ISBE receives a waiver from the administration of assessments from the U.S. Dept. of Education. *Id.*

105 ILCS 5/2-3.64a-5(c), amended by P.A.s 100-7, 100-1046, and 101-643; 23 Ill. Admin. Code §1.30. Section 2-3.64a-5(c) requires that the assessment administered by ISBE for the purpose of student application to or admissions consideration by institutions of higher education be administered on a school day during regular student attendance hours.

6. Filing one of the following: (1) a Free Application for Federal Student Aid (FAFSA) with the U.S. Dept. of Education, (2) an application for State financial aid, or (3) an Ill. State Board of Education (ISBE) waiver form indicating that the student understands what these aid opportunities are and has chosen not to file an application. If the student is not at least 18 years of age or legally emancipated, the student's parent/guardian must file one of these documents on the student's behalf.

A student is exempt from this requirement if: (1) the student is unable to file a financial aid application or an ISBE waiver due to extenuating circumstances, (2) the Building Principal attests the District made a good faith effort to assist the student or the student's parent/guardian with filing a financial aid application or an ISBE waiver form, and (3) the student has met all other graduation requirements.⁷

The Superintendent or designee is responsible for:⁸

1. Maintaining a description of all course offerings that comply with the above graduation requirements.
2. Notifying students and their parents/guardians of graduation requirements.
3. Developing the criteria for #4 above.
4. Complying with State law requirements for students who transfer during their senior year because their parent(s)/guardian(s) are on active military duty. This includes making reasonable adjustments to ensure graduation if possible, or efforts to ensure that the original (transferor) school district issues the student a diploma.
5. Taking all other actions needed or necessary to implement this policy.

Early Graduation⁹

The Superintendent or designee shall implement procedures for students to graduate early, provided they finish seven semesters of high school and meet all graduation requirements.

Certificate of Completion¹⁰

A student with a disability who has an Individualized Education Program prescribing special education, transition planning, transition services, or related services beyond the student's four years

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⁶ 105 ILCS 5/2-3.64a-5(e), amended by P.A.s 100-222 and 100-1046, no longer requires that the scores attained by a student on an assessment that includes a college and career readiness determination be entered on the student's transcript. The student's final accountability assessment scores, however, must be placed in the student's permanent record. See also 23 Ill.Admin.Code §375.10.

⁷ 105 ILCS 5/22-875 (final citation pending), added by P.A. 101-180. See 6:300-E3, *Form for Exemption from Financial Aid Application Completion*. ISBE provides a waiver form, the FAFSA Nonparticipation Form, for a parent/guardian or eligible student to opt of this graduation requirement at: www.isbe.net/Documents/FAFSA-Non-Participation-Form.pdf. The Alternative Application for Ill. Financial Aid referenced in that form is intended for use by qualifying undocumented and transgender students, and is available at: <https://studentportal.isac.org/alternativeapp>.

⁸ Items #1 and #2 are required by 23 Ill.Admin.Code §1.440(d) and (e), respectively. Item #3 must be addressed because the law leaves many implementation issues unanswered. A comprehensive Student Handbook can provide notice of the district's graduation requirements, conduct rules, and other important information. Item #4 includes discussion of the adjustments required by the Educational Opportunity for Military Children Act, 105 ILCS 70/35(d).

⁹ This is optional. State law and rules are silent regarding early graduation. As an alternative, a board may delete the phrase "finish 7 semesters of high school and."

¹⁰ Required by 105 ILCS 5/14-16.

of high school, qualifies for a certificate of completion after the student has completed four years of high school. The student is encouraged to participate in the graduation ceremony of his or her high school graduation class. The Superintendent or designee shall provide timely written notice of this requirement to children with disabilities and their parents/guardians.

Service Member Diploma ¹¹

The District will award a diploma to a service member who was killed in action while performing active military duty with the U.S. Armed Forces or an honorably discharged veteran of World War II, the Korean Conflict, or the Vietnam Conflict, provided that he or she (1) resided within an area currently within the District at the time he or she left high school, (2) left high school before graduating in order to serve in the U.S. Armed Forces, and (3) has not received a high school diploma.

LEGAL REF.: 105 ILCS 5/2-3.64a-5, 5/22-27, ~~5/22-87~~, 5/27-3, 5/27-22, and 5/27-22.10.
105 ILCS 70/, Educational Opportunity for Military Children Act.
23 Ill.Admin.Code §1.440.

CROSS REF.: 6:30 (Organization of Instruction), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students), 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)

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¹¹ Optional. 105 ILCS 5/22-27, amended by P.A. 101-131, does not designate a time requirement for when the service member killed in action or veteran "resided within an area currently within the district." Thus, a reasonable interpretation may be adopted locally. The sample policy designates "at the time he or she left high school" as the pertinent time for residence. See 6:300-E1, *Application for a Diploma for a Service Member Killed in Action or for Veterans of WWII, the Korean Conflict, or the Vietnam Conflict*.

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 or high school courses offering dual credit at both the college and high school level 4

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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." 23 Ill.Admin.Code §1.460.

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); 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 (CC) toward graduation. 23 Ill.Admin.Code §1.440(f). Superintendents, pursuant to 105 ILCS 5/10-21.4, must annually report to the Ill. State Board of Education (ISBE) the number of students enrolled in accredited courses at any CC along with the name(s) and number(s) of the course(s) each student is taking.

⁴ The Dual Credit Quality Act (DCQA) (110 ILCS 27/, amended by P.A. 102-516) defines dual credit as a college course taken by a high school student for credit at both the college and high school level. 110 ILCS 27/5 and 105 ILCS 5/10-20.62(a), amended by P.A. 100-792. An instructor who teaches a dual credit course does not need the certification required by Article 21 of the School Code but must meet the standards set forth in 110 ILCS 27/20(1), (2), or (3), amended by P.A. 100-1049. Dual credit programs require: (a) a specific partnership agreement between the district and a CC, as long as the district is in the CC's jurisdiction (110 ILCS 27/16, added by P.A. 100-1049), or (b) 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*). If the district and CC cannot agree within 180 days of a district's initial request to enter into a partnership agreement, the two parties must use the model partnership agreement located at 110 ILCS 27/19, added by P.A. 100-1049.

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 Tech Prep Program ⁶
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.

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Out-of-state dual credit contracts are prohibited until a district first offers the CC in the district in which the district is located the opportunity to provide a dual credit course. 110 ILCS 27/17, added by P.A. 100-1049. In addition, a district seeking to enter into an agreement with an out-of-state institution must provide notice to the Ill. State Board of Higher Education (BHE) of its intent to which the BHE will have 30 days to provide the district with a list of in-state institutions that can provide the district an equivalent dual credit opportunity. Id. Agreements between a district and an out-of-state institution that were in effect before 1-1-19 will not be affected. Id. A high school evaluation of a dual credit program must also incorporate the analysis of data from the Ill. State Board of Education's (ISBE) statewide longitudinal data system (see the P-20 Longitudinal Education Data System Act, 105 ILCS 13/, for more information).

105 ILCS 5/10-20.62, added by P.A. 100-133 and renumbered by P.A. 100-792, requires school boards to require the district's high schools, if any, to inform all 11th and 12th grade students of dual enrollment and dual credit opportunities at public CCs for qualified students. Qualified students may enroll in an unlimited amount of dual credit courses and earn an unlimited amount of academic credits from them if the course(s) are taught by an Ill. instructor, as provided by 110 ILCS 27/. Id. at (b), amended by P.A. 100-792. In addition, all dual credit coursework completed by a high school student must be transferred to all public institutions in Illinois on the same basis as coursework completed by a public CC student who previously earned a high school diploma in the manner set forth under the Ill. Articulation Initiative Act. Id. at 27/19, added by P.A. 100-1049.

The DCQA requires partnership agreements between districts and CCs to address access to dual credit courses by individual students with disabilities. 110 ILCS 27/16, amended by P.A. 102-516. 105 ILCS 5/14-8.03, amended by P.A. 102-516 also requires districts to provide special education students with information about career and technical education (CTE) opportunities, including at the postsecondary level. See *Increasing Postsecondary Opportunities and Success for Students and Youth with Disabilities* at: www.sites.ed.gov/idea/idea-files/qa-increasing-postsecondary-opportunities-success-for-students-youth-with-disabilities-sept-17-2019/#Letter for information on providing transition services to high school students who have individualized education programs (IEPs), are receiving services under the IDEA, and take courses offered by a community college or other postsecondary education institution program prior to high school graduation.

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. 105 ILCS 5/2-3.44; 23 Ill.Admin.Code §1.465(b). For requirements, see 23 Ill.Admin.Code §1.465.

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 Tech Prep work based learning for secondary school students with an interest in pursuing such career training, 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 CCs, 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.

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:⁹

1. The Building Principal approves the substitution(s) 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(s) in writing on forms provided by the District.

Registered Apprenticeship Program.¹⁰ The Superintendent or designee will ensure that the District complies with State law requirements for registered apprenticeship programs.¹¹ The opportunities and requirements for registered apprenticeship programs contained in this policy will be posted on the District's website, and parents/guardians and students will also be notified of such opportunities in the appropriate school handbook(s).¹²

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

⁸ Allowing for this substitution is optional, but, if offered, must be included in board policy. 105 ILCS 5/27-22.05; amended by P.A. 100-992.

⁹ The *related* requirement is met if the course contains at least 50% of the content of the required course. *Id.* 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*. There is no parallel recordkeeping requirement in the rules for registered apprenticeships; however, it is best practice to maintain all types of substitution requests as evidence of compliance with the form requirement.

¹⁰ Allowing for this substitution is optional, but, if offered, must be included in board policy. 105 ILCS 5/2-3.175, added by P.A. 100-992, renumbered by P.A. 101-81; 23 Ill.Admin.Code §255.200. A *registered apprenticeship program* is an industry-based occupational training program of study with standards reviewed and approved by the U.S. Dept. of Labor that meets characteristics set forth in State law and ISBE rules. The introductory sentence and listed items 1, 3, 4, and 6 are required to be in the policy if a board decides to allow students to participate in registered apprenticeship programs. See 23 Ill.Admin.Code §255.200(b). Item #2 is not required to be stated in policy, but is required to be included in a district's website notification (if any) to parents/guardians about registered apprenticeship opportunities. See f/n 13, below.

If a board adopts a policy to allow for student participation in registered apprenticeship programs, the policy must be posted on the district's website (if any) for students, parents, and members of the business and industry community to access. 23 Ill.Admin.Code §255.200(c)(1). See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*, and f/ns 12 and 13 below for other related website posting requirements.

¹¹ 105 ILCS 5/2-3.175, added by P.A. 100-992, renumbered by P.A. 101-81; 23 Ill.Admin.Code Part 255. In addition to the requirements listed in the policy, districts allowing for student participation in registered apprenticeship programs must also: (1) submit data on participating students through ISBE's Student Information System, (2) identify and attempt to eliminate any barriers to student participation, and (3) include the program in the Career Pathway Endorsement if the district awards endorsements under the Postsecondary and Workforce Readiness Act (110 ILCS 148/). 23 Ill.Admin.Code §255.200(d)-(f).

¹² 23 Ill.Admin.Code §255.200(c). The Illinois Principals Association maintains a handbook service that coordinates with PRESS material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook. The notification to students and parents on the district's website must include: (1) a statement that a student may participate in any registered apprenticeship program listed by the district; and (2) a statement that a student may find a registered, but not listed, apprenticeship program with a business or organization, if a registered apprenticeship program is not offered in the district. 23 Ill.Admin.Code §255.200(c)(2). See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. For districts that do not maintain a website, use the following alternative sentence:

Parents/guardians and students will be notified of opportunities for registered apprenticeship programs in the appropriate school handbook(s).

A student in grades 9-12 who is 16 years or older may satisfy one or more high school courses (including physical education) or graduation requirements by successfully completing a registered apprenticeship program if:

1. The registered apprenticeship program meets all criteria contained in State law;
2. The registered apprenticeship program is listed by the District, or the student identifies a registered (but not listed) apprenticeship program with a business or organization if one is not offered in the District;
3. The student enrolled in a registered apprenticeship program has the opportunity to earn post-secondary credit toward a certificate or degrees, as applicable;
4. The student's parent/guardian requests and approves the substitution(s) in writing on forms provided by the District and on its website;¹³
5. The Building Principal approves the substitution(s); and
6. All non-academic requirements mandated by the School Code for high school graduation that would otherwise prohibit or prevent the student from participating in the registered apprenticeship program are waived.

Advanced placement computer science.¹⁴ 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 reasons stated below.¹⁵ 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.¹⁶

1. Ongoing participation in a marching band program for credit;¹⁷
2. Enrollment in Reserve Officer's Training Corps (ROTC) program sponsored by the District;¹⁸
3. Ongoing participation in an *interscholastic* or *extracurricular athletic program*;¹⁹

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

¹³ 23 Ill.Admin.Code §255.200(b)(4). See 6:310-E, *Class Substitution Request*, and 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. If the district does not maintain a website, delete ~~and on its website~~.

¹⁴ Optional, but allowed by 105 ILCS 5/27-22(e)(3), amended by P.A. 101-464, and 5/27-22(f-5).

¹⁵ Optional, but allowed by 105 ILCS 5/27-6(b), amended by P.A. 100-465; 23 Ill.Admin.Code §1.425(e). 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.

¹⁶ 23 Ill.Admin.Code §1.425(e).

¹⁷ 23 Ill.Admin.Code §1.425(e)(4)(A). 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.

¹⁸ 23 Ill.Admin.Code §1.425(e)(4)(B).

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);²⁰ 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).²¹

A student who is eligible for special education may be excused from physical education courses pursuant to 7:260, *Exemption from Physical Education*.

Volunteer service credit.²² 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 Students²³

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.

¹⁹ 23 Ill.Admin.Code §1.425(e)(2) and (e)(3)(A). Prior to P.A. 100-465, the statute only allowed students in grades 11 and 12 to be excused from P.E. "for ongoing participation in an interscholastic athletic program." 105 ILCS 5/27-6(b)(1). 105 ILCS 5/27-6(b), amended by P.A. 100-465, now states "on a case-by-case basis, excuse pupils in grades 7 through 12 who participate in an interscholastic or extracurricular athletic program." While the statute no longer requires such participation to be *ongoing*, 23 Ill.Admin.Code §1.425(e)(3) requires *ongoing participation*. Thus, if the athletic program 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 only until the end of the grading period during which the athletic program is active. 23 Ill. Admin. Code §1.425(e)(2) limits interscholastic and extracurricular athletic programs to those that are sponsored by the school district as defined in school board policy. Boards do not have the "authority to honor parental excuses based upon students' participation in athletic training, activities or competitions conducted outside the auspices of the school district." *Id.* at §1.425(e)(6).

State statutes do not define *interscholastic athletic program* or *extracurricular athletic program*; however, 105 ILCS 5/22-80 defines *interscholastic athletic activity* 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." 23 Ill.Admin.Code §1.425(e)(2), added at 42 Ill. Reg. 11542, defines *interscholastic and extracurricular athletic programs* as "those programs that are sponsored by the school district as defined by school district policy." Boards have no authority to honor parental excuses based upon students' participation in athletic training, activities or competition conducted outside the auspices of the school district. 23 Ill.Admin.Code §1.425(e)(6).

For boards that want to explain the meaning of *interscholastic or extracurricular athletic program*, insert the following option at the end of #3:

(organized school-sponsored or school-sanctioned activities for students that are not part of the curriculum, not graded, not for credit, generally take place outside of school instructional hours, and under the direction of a coach, athletic director, or band leader)

For unit districts, ensure the definition matches the definition in policy 7:260, *Exemption from Physical Education*.

²⁰ 23 Ill.Admin.Code §1.425(e)(3)(B).

²¹ 23 Ill.Admin.Code §1.425(e)(3)(C).

²² 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. *Id.* ISBE must provide assistance to districts opting to offer the program. 105 ILCS 5/2-3.108.

²³ 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. 105 ILCS 5/27-6, 27-22.05.

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 American Council on Education

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, 5/2-3.175, 5/10-22.43a, 5/27-6, 5/27-22.3, and 5/27-22.05.
110 ILCS 27/, Dual Credit Quality Act.
23 Ill.Admin.Code §§1.425(e), 1.440(f), 1.470(c), and Part 255.

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 Education)

Instruction

High School Credit for Proficiency

Proficiency Credits ¹

Subject to the limitations in this policy and State law, the Superintendent or designee is authorized to establish and approve a program for granting credit for proficiency with the goal of allowing a student who would not benefit from a course because the student is proficient in the subject area to receive credit without having to take the course. A student who demonstrates competency under this program will receive course credit for the applicable course and be excused from any requirement to take the course as a graduation prerequisite. No letter grade will be given for purposes of the student's cumulative grade point average. The Superintendent or designee shall notify students of the availability of and requirements for receiving proficiency credit.

Proficiency credit will be offered in the following subject areas: ²

Foreign language - A student is eligible to receive one year of foreign language credit if the student has graduated from an accredited elementary school and can demonstrate proficiency, according to this District's academic criteria, in a language other than English.³ A student who demonstrates proficiency in American Sign Language is deemed proficient in a foreign language and will receive one year of foreign language credit.⁴ A student who studied a foreign language in an approved ethnic school program is eligible to receive appropriate credit according to the level of proficiency reached; the student may be required to take a proficiency examination.⁵

Other proficiency testing - The program for granting credit for proficiency may allow, as the Superintendent deems appropriate, course credit to be awarded on the basis of a local examination to a student who has achieved the necessary proficiency through independent study or work taken in or through another institution.⁶ Proficiency testing may also be used to determine eligible credit for other subjects whenever students enter from non-graded schools, non-recognized or non-accredited schools, or were in a home-schooling program.

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 districts with a high school to have a policy on earning credit through proficiency exams. 23 Ill.Admin.Code §1.460. State law controls this policy's content. Students must *successfully complete* the courses listed in 105 ILCS 5/27-22, amended by P.A. § 101-643, 101-654, 102-366, in order to receive a high school diploma. See 6:300-E2, *State Law Graduation Requirements*. 105 ILCS 5/27-12.1 no longer allows districts to grant consumer education proficiency credit.

In accordance with 105 ILCS 5/2-3.159, amended by P.A. 101-503, and 23 Ill.Admin.Code §680.20, a school district may establish a program to recognize high school graduates who attain a high level of proficiency in one or more languages in addition to English by designating on a student's diploma and transcript a State Seal of Biliteracy.

² This paragraph should be revised to reflect the actual practice concerning granting proficiency credits. A board may delete all text concerning foreign language proficiency credit and keep only the text in the second indented paragraph without using a subheading.

³ Optional, but permitted by 105 ILCS 5/10-22.43.

⁴ See f/n 2. Required only if the district offers proficiency credit for foreign language. Id.

⁵ See f/n 2. Optional, but permitted by 105 ILCS 5/10-22.43a.

⁶ Optional.

LEGAL REF.: 105 ILCS 5/10-22.43, 5/10-22.43a, 5/27-22, and 5/27-24.3.
23 Ill.Admin.Code Part 680.

CROSS REF.: 6:300 (Graduation Requirements), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students), 6:315 (High School Credit for Students in Grade 7 or 8)

DRAFT

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 to students all standardized assessments required by the Ill. State Board of Education (ISBE) 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

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

¹ State and federal law control this policy's content. 105 ILCS 5/2-3.64a-5(b) requires the Ill. State Board of Education (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. Further information on ISBE assessments is available at: www.isbe.net/Pages/IAR.aspx. The Ill. State Board of Education (ISBE) selected the *Partnership for Assessment of Readiness for College and Careers* (PARCC) as the State assessment and accountability measure for grades 3-8 through the 2017-2018 school year. Beginning with the 2018-2019 school year, ISBE began transitioning from PARCC to the *Ill. Assessment for Readiness* (IAR), which continues to use "an anchor set of PARCC items." See letter from State Superintendent Tony Smith, 2-8-19, along with other ISBE resource material at www.isbe.net/IAR. 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(c), amended by P.A.s 100-7 and 101-643, requires that the assessment administered by ISBE for the purpose of student application to or admissions consideration by institutions of higher education be administered on a school day during regular student attendance hours.

105 ILCS 5/2-3.64a-5(d) contains the requirements for assessing students receiving special education services and students determined to be English learners.

105 ILCS 5/2-3.64a-5(e), amended by P.A. 100-222, no longer requires that the scores attained by a student on an assessment that includes a college and career readiness determination be entered on the student's transcript. The scores, however, must be placed in the student's permanent record. See 23 Ill.Admin.Code §375.10, Scores received on state assessments administered in kindergarten through grade 8 must be placed in the student's temporary record. Id.

105 ILCS 5/2-3.64a-10(b), added by P.A. 101-654, requires ISBE to annually assess all public school students entering kindergarten using a common assessment tool, unless ISBE determines that a student is otherwise exempt.

² Required by 105 ILCS 5/2-3.64a-5(c), amended by P.A. 101-643.

³ 105 ILCS 5/2-3.64a-5(e) and 5/2-3.64a-10(c), added by P.A. 101-654, amended by P.A. 100-222, 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(b).

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/guardians of students.⁶ Board policy 7:340, *Student Records*, and its implementing procedures govern recordkeeping and access issues.⁷

LEGAL REF.: 20 U.S.C. §1232g, Family Educational Rights and Privacy Act.
105 ILCS 10/, Illinois School Student Records Act.
105 ILCS 5/2-3.63, 5/2-3.64a-5, 5/2-3.64a-10, 5/2-3.107, 5/2-3.153, 5/10-17a, 5/22-82, and 5/27-1.
23 Ill. Admin. Code §1.30(b) and § 375.10.

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.

⁵ Required by 105 ILCS 5/10-17a, ~~amended by P.A.s 100-227, 100-807, and 100-1121.~~ School districts must annually, no more than 30 days after receipt from the State Superintendent release their district's and schools' report cards assessing the performance of its schools and students. Districts must: (1) present the report cards at a regular Board meeting, (2) post them on the District's website, (3) make them available to a newspaper of general circulation serving the District, and (4) upon request, send them home to parents/guardians. 105 ILCS 5/10-17a(5). The school report card must describe, among other items, 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 (requires ISBE, in addition to its default school climate survey, to identify two or three alternative school survey instruments from which districts may select).

⁶ 105 ILCS 5/22-82 requires every school district to report to ISBE 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.

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*. -Although not required by law, if a board wants to direct that this information be shared more broadly with the public for greater transparency, add "and to the community" after "parents/guardians of students."

⁷ 105 ILCS 5/2-3.64a-5(c), ~~amended by P.A. 100-222,~~ governs recording assessment results in school student records. See also the Ill. School Student Records Act, 105 ILCS 10/; 23 Ill.Admin.Code §375.10.

16. First Reading of Revised Board of Education Policy 6:50 - School Wellness

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Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policy for Section 6:50 - School Wellness. **See Attachment No. 14.**

TO: Members of the Board of Education

FROM: Dr. Matt DeBaene, Assistant Superintendent for Secondary Teaching and Learning ^{MD}
Dr. Brian Prybil, Assistant Superintendent for Elementary Teaching and Learning ^{BP}

DATE: January 20, 2022

SUBJECT: Approve Board Policy 6:50 – School Wellness

Reason for Board Consideration: The Board of Education approves updated Board Policy.

Action Necessary: That the Board of Education approve the updated Board Policies.


Facts: In the continuing quest to update the District’s Board Policies, attached is Board Policy 6:50 – School Wellness, which was included as part of the November 2021 PRESS update review. This policy was just updated in October/November 2018; however, PRESS did their quarterly review on all policies in November of 2021 and this reflects those updates.

The policy is updated to include language on an “Unused Food Sharing Plan.” Currently, the District has already established “food sharing” tables at almost every school. The footnotes and Legal References are updated as well. Recall the underlined text represents suggested new additions; whereas, the ~~strikethrough~~ text represents suggested deletions.

Cost: None.

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy for Section 6:50 – School Wellness.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

Instruction

School Wellness 1

Student wellness, including good nutrition and physical activity, shall be promoted in the District's educational program, school-based 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 will ensure: 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 (Child Nutrition Act) requires school districts participating in a program authorized by the National School Lunch Act (NSLA) (42 U.S.C. §1751 *et seq.*) or the Child Nutrition Act to have a school wellness policy. Pub. L. 108-265, Sec. 204. State law required the Ill. State Board of Education (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 NSLA or the Child Nutrition Act.

See ISBE's numerous resources at: www.isbe.net/Pages/Nutrition-and-Wellness.aspx. 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. 105 ILCS 124/, Farm Fresh Schools Program Act; 30 ILCS 105/5.728, Farm Fresh Schools Program Fund. They are also directed to administer a grant program to further the Program's intent of "reduc[ing] obesity and improve[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." 105 ILCS 124/10.

² 7 C.F.R. §210.31(a) and (c)(1). The law does not require *school-based activities* to be listed in policy – only that boards implement them. Federal law requires consideration of *evidence-based strategies and techniques* when implementing school-based activities. A board that chooses to list these activities must update them as they change by readopting the policy.

For boards that have developed and wish to list their chosen evidence-based school-based activities, add the following sentence to the paragraph as the second sentence: "The District's school-based activities include: *[list the chosen evidence-based school-based activities]*."

For boards that have not yet developed and implemented their evidence-based school-based activities and need technical assistance, see the websites for:

1. The U.S. Dept. of Agriculture (USDA) at: <https://healthymeals.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/other-school-based-activities>; and
2. The Alliance for a Healthier Generation (AHG) at: <https://www.healthiergeneration.org/>.

³ Healthy Hunger-Free Kids Act of 2010 (HHFKA); 42 U.S.C. §1758b (Pub.L. 111-296); 7 C.F.R. §§210.10 and 210.31(a).

⁴ *Id.*; 7 C.F.R. §210.31(c)(4) (identification of school official responsible for implementation of the policy), §210.31 (d)(2) (informing the public about the policy and making it available on an annual basis), §210.31 (d)(3) (informing the public of the progress toward meeting the goals of the policy by making triennial assessments available), and §210.31(e) (policy implementation, assessments, and updates). See also f/n 20, below.

1. Each school building complies with this policy;
2. The policy is available to the community on an annual basis through copies of or online access to the Board Policy Manual⁵; and
3. The community is informed about the progress of this policy's implementation.

Goals for Nutrition Education and Nutrition Promotion ⁶

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 Board policy 6:60, *Curriculum Content*. ⁷

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

This sample policy identifies the superintendent as the school official responsible to ensure compliance and oversee the policy. When the rules require specific identification of a school official, the policy does not include the delegation language *or designee*. [School boards] must identify the [school official(s)] responsible for oversight of [its wellness policy] to ensure compliance. [Boards] have discretion and are the most qualified to identify the best candidate for [their wellness] policy leadership as size, resources, and needs vary greatly among [school districts]. See Federal Register Vol. 81, No. 146 at 50155 at: www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf.

For boards that wish to identify a school official other than the superintendent, delete *Superintendent* and replace it with the responsible school official's title.

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*.

⁵ For boards that distribute their wellness policies via student handbooks and want to list that in the text of their policies, insert "and distributed to students and their parents/guardians through student handbooks". For sample handbook language, see the Illinois Principals Association *Online Model Student Handbook (MSH)* at: www.ilprincipals.org/resources/model-student-handbook.

⁶ Goals for nutrition education and nutrition promotion are required topics, but the local board may determine what goals are appropriate. Pub. L. 108-265, Sec. 204(a)(1) and Pub. L. 111-296; 105 ILCS 5/2-3.139(a)(2); and 7 C.F.R. §210.31(c)(1). Replace this policy's text with a board's own locally-developed nutritional education and promotion goals.

Nutrition promotion, required by Pub. L. 111-296, is not well-described or defined. The Food Nutrition Service (FNS) describes *nutrition promotion* more clearly in its 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."

More specific materials about nutrition education and promotion, including songs, games, posters, videos, event-planning booklets, wellness communication toolkits, school garden activities, and a graphics library, have also been developed by the FNS' Team Nutrition at: www.fns.usda.gov/tn/resource-library.

Technical assistance for:

1. *Nutritional promotion* at: healthymeals.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/nutrition-promotion.
2. Goals development for and implementation of nutrition education and promotion are available from AHG at: www.healthiergeneration.org/.

⁷ 105 ILCS 110/3 and 23 Ill.Admin.Code §1.420(n).

Goals for Physical Activity ⁸

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*. ⁹
- 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*. ¹⁰
- 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). ¹¹

Nutrition Guidelines for Foods Available During the School Day; Marketing Prohibited ¹²

Students will be offered and schools will promote nutritious food and beverage choices during the school day that are consistent with Board policy 4:120, *Food Services* (requiring compliance with the nutrition standards specified in the U.S. Dept. of Agriculture's (USDA) *Smart Snacks* rules). ¹³

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

⁸ This is a required topic, but the local board may determine what goals are appropriate. Pub.L. 108-265, Sec. 204(a)(1); 105 ILCS 5/2-3.139(a)(2); and 7 C.F.R. §210.31(a) and (c)(1).

⁹ 105 ILCS 5/27-5 and 27-6; 23 Ill.Admin.Code §1.425—amended at 42 Ill. Reg. 11549. See also fn 2927 in policy 6:60, *Curriculum Content*. For standards-based lesson plans and curricula for pre-kindergarten through grade eight, classroom-based lesson plans, recipes, guidance to improve the quality of school meals, and other materials for nutrition education and promotion, including songs, games, posters, videos, event-planning booklets, wellness communication toolkits, school garden activities, and a graphics library, see the resources developed by the FNS' Team Nutrition at: www.fns.usda.gov/tn/resource-library.

¹⁰ Id. This policy's sample text is based upon federal and State goals while sample policy 6:60, *Curriculum Content's* text is based only upon State curriculum requirements that require a minimum of three days of physical education per five-day week. Ensure the text in this policy's goal aligns with the district's practice stated in policy 6:60 for meeting the minimum requirements of 23 Ill.Admin.Code §1.425(b).

¹¹ 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 at: www.isbe.net/Pages/Learning-Standards.aspx. See *State Goal 20: Achieve and maintain a health-enhancing level of physical fitness based upon continual self-assessment* at: <https://www.isbe.net/Pages/Physical-Education-and-Health.aspx>.

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*. See also 23 Ill.Admin.Code §1.425 (f) and (h); ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers (Rev. 5-22-17)* at: <https://www.isbe.net/documents/fitness-asmt-faq.pdf>.

¹² 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." Pub. L. 108-265, Sec. 204(a)(2); 105 ILCS 5/2-3.139(a)(1); and 7 C.F.R. §210.10 and 210.31(a), (c)(2), and (c)(3)(i)-(iv). 42 U.S.C. 1758b(b)(2)(A) requires that each local school wellness policy include nutrition guidelines for all foods and beverages available for sale on the school campus during the school day to ensure they are consistent with the statutory and regulatory provisions governing school meals (7 C.F.R. §§210.10, 220.8 and 220.10) and competitive foods (7 C.F.R. §210.11) as applicable.

Prior to July 2016 when 7 C.F.R. § 210.10 and 7 C.F.R. § 210.31(c) (respectively) became effective, the current *Dietary Guidelines for Americans* published jointly by the U.S. Depts. of Health and Human Services and Agriculture (USDA) were used as nutrition guidelines.

In addition, in order to promote student health and reduce childhood obesity,¹⁴ the Superintendent or designee shall:

1. Restrict the sale of *competitive foods*, as defined by the USDA, in the food service areas during meal periods;
2. Comply with all ISBE rules; and
3. Prohibit marketing during the school day of foods and beverages that do not meet the standards listed in Board policy 4:120, *Food Services*, i.e., in-school marketing of food and beverage items must meet *competitive foods* standards.¹⁵

Competitive foods standards do not apply to foods and beverages available, but not sold in school during the school day; e.g., brown bag lunches, foods for classroom parties, school celebrations, and reward incentives.¹⁶

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

¹³ 7 C.F.R. §§210.10 (meal requirements for lunches and after-school snacks); 210.11(c) (general nutrition standards for competitive food, i.e., *Smart Snacks*); and 210.31(a) and (c) (encompassing all other nutrition requirements, including foods not sold to students during the school day (classroom parties)).

¹⁴ 7 C.F.R. §210.31(c)(3)(iv).

¹⁵ 7 C.F.R. §§210.11(a)(2) and 210.31(c)(3)(iii); 23 Ill. Admin. Code §305.5. For a definition of *competitive foods*, see 4:120-AP, *Food Services; Competitive Foods; Exemptions*.

¹⁶ 7 C.F.R. §210.31(c)(2). This sample policy does not apply competitive food standards to foods not sold in schools; i.e., foods that students bring into the school from home, etc.

The final [federal] rule does not require that local school wellness policy standards for foods provided in schools during the school day but not available for sale conform to the school meal requirements or the competitive foods standards. In fact, the preamble to the final rule reiterates this saying, “[a]gain, it should be noted that with regard to foods provided, but not sold, in schools, local jurisdictions have the discretion to adopt standards that conform to [the competitive food standards] or to adopt more or less stringent standards.” Similarly, the preamble to the final rule clearly states the rule does not require school boards to address standards for food brought from home for individual consumption. See Federal Register Vol. 81, No. 146 at 50158 at: www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf. Emphasis added.

This sample policy adopts less stringent standards for foods not sold in schools. For boards that wish to adopt standards that conform to the competitive food standards or apply even more stringent standards to foods available, but not sold during the school day, delete the last sentence of this subhead: ~~Competitive foods standards do not apply to foods and beverages available, but not sold in school during the school day; e.g., foods for classroom parties, school celebrations, and reward incentives~~, and choose one of the following sentences to replace it:

Option 1: The District applies *competitive foods* standards listed in Board policy 4:120, *Food Services*, to foods available, but not sold, in schools.

Option 2: The District applies more stringent standards than the *competitive foods* standards to foods available, but not sold, in schools. These include [*list the chosen standards to foods available, but not sold, in schools*].

The AHG encourages school officials to consider prohibiting foods as a reward and using the *Smart Snacks* standards for foods available, but not sold during the school day. However, enforcing such standards against students who are sent to school with snacks from their parents/guardians is difficult and may be considered overreach. Further, such a standard may open the district to challenges. Consult the board attorney about enforcement of standards that meet the *competitive foods* standards – or even more stringent standards – upon foods available, but not sold during the school day, i.e., choosing Options 1 or 2, above.

Exempted Fundraising Day (EFD) Requests ¹⁷

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.

ISBE rules prohibit EFDs for grades 8 and below in participating schools.

The Superintendent or designee in a participating school may grant an EFD for grades 9 through 12 in participating schools. 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 for grades 9 through 12 in participating schools is set by ISBE rule.

Guidelines for Reimbursable School Meals ¹⁸

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. ¹⁹

Unused Food Sharing Plan ²⁰

In collaboration with the District’s local health department, the Superintendent or designee will:

1. Develop and support a food sharing plan (Plan) for unused food that is focused on needy students. ²¹
2. Implement the Plan throughout the District.
3. Ensure the Plan complies with the Richard B. Russell National School Lunch Act, as well as accompanying guidance from the U.S. Department of Agriculture on the Food Donation Program. ²²
4. Ensure that any leftover food items are properly donated to combat potential food insecurity in the District’s community. Properly means in accordance with all federal regulations and State and local health and sanitation codes.

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¹⁷ Required by 23 Ill.Admin.Code §305.15(c)(2), 7 C.F.R. §§210.11(b)(4), (c)(2) and 210.30(c)(2) for participating schools that want to grant EFDs.

For elementary districts, delete these sentences: ~~The Superintendent or designee in a participating school may grant an EFD for grades 9 through 12 in participating schools. 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 for grades 9 through 12 in participating schools is set by ISBE rule.~~

For high school districts, delete this sentence: ~~EFDs are prohibited for grades eight and below in participating schools.~~

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, *Food Services; Competitive Foods; Exemptions*.

¹⁸ Inclusion in the policy is required for only those districts that participate in a program authorized by the NSLA or the Child Nutrition Act.

¹⁹ Child Nutrition Act of 1966 (42 U.S.C. §1771 et seq.) and NSLA (42 U.S.C. §1758).

²⁰ 105 ILCS 5/2-3.182, added by P.A. 102-359.

²¹ *Needy students* is not defined by 105 ILCS 5/2-3.182, added by P.A. 102-359.

²² Required for districts that participate in child nutrition programs, the National School Lunch Program and National School Breakfast Program, the Child and Adult Care Food Program (CACFP), and the Summer Food Service Program (SFSPP). See 105 ILCS 5/2-3.182, added by P.A. 102-359.

Delete number 3 *only if* the district participates in none of the programs listed.

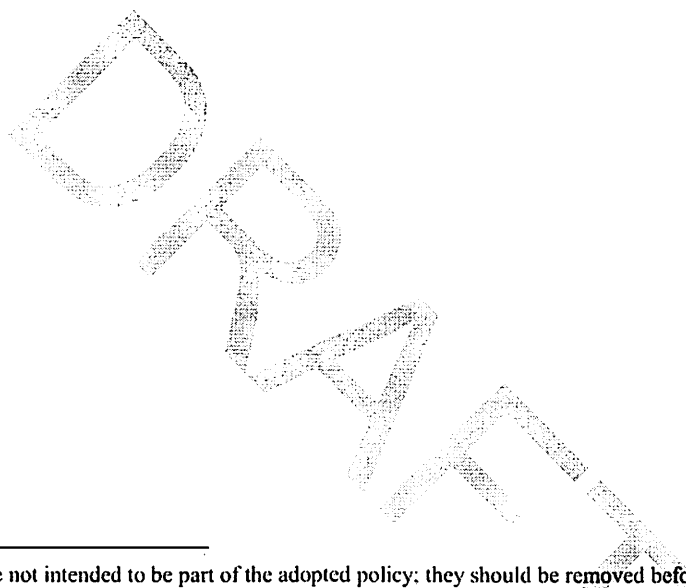
~~Food sharing plans will depend on many local factors and require local health department involvement, so because of that, a sample PRESS administrative procedure is not practical and does not exist.~~

Monitoring ²³

At least every three years, the Superintendent shall 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 (a triennial report).²⁴ This triennial 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
- 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
- How the District will make the results of the assessment available to the public
- Where the District will retain records of the assessment ²⁵

The Board will monitor and adjust the policy pursuant to policy 2:240, *Board Policy Development*.



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²³ 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: Pub. L. 108-265, Sec. 204(a)(4); 105 ILCS 5/2-3.139(a)(4); and 7 C.F.R. §210.31(c)(5), (6), and (e)(1). 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/Pages/Nutrition-and-Wellness.aspx.

⁴² U.S.C. §1758b (Pub. L. 111-296) requires the public to receive periodic measures with the listed items. 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. 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 at: www.fns.usda.gov/tn/healthy/wellnesspolicy_tools.html.

²⁴ 7 C.F.R. §210.31(e)(2)(i)-(iii) and (3).

²⁵ *Id.* and §210.31(f); see also the Local Records Act, 50 ILCS 205/. It governs retention of district records; its definition of *public record* is narrower than the definition in the Freedom of Information Act. These communications must be retained only when they contain: (1) evidence of the district's organization, function, policies, procedures, or activities, or (2) informational data appropriate for preservation. Consult the board attorney for a more thorough analysis and a legal opinion about how to meet both of the federal records retention requirements discussed in *f/n* 25, below, and the Local Records Act.

Community Involvement ²⁶

The Board and Superintendent will actively invite suggestions and comments concerning the development, implementation, periodic reviews, and updates 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 the community. Community involvement methods shall align their suggestions and comments to policy 2:140, *Communications To and From the Board* and/or the **Community Engagement** subhead in policy 8:10, *Connection with the Community*. ²⁷

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

²⁶ A board must establish a plan in its wellness policy for involving 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. Pub.L. 108-265, Sec. 204(a)(5), amended by 42 U.S.C. §1758b (Pub.L. 111-296); 105 ILCS 5/2-3.139(a)(3); 7 C.F.R. §210.31(c)(5) (requirement to describe involvement plan in policy), and 7 C.F.R. §210.31(d)(1)(requirement to allow certain stakeholders to participate in policy development, etc.).

School districts have discretion in exactly how they implement this requirement, and [e]ach [school district] is best suited to determine the distinctive needs of the community it serves. See Federal Register Vol. 81, No. 146 at 50155 at: www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf.

This requirement's awkward wording notwithstanding, a board may take compliance steps by:

1. Seeking community input or involvement during this policy's adoption and monitoring phases, and inviting suggestions and comments during the public comment portion of board meetings from time to time. This method aligns with 2:140, *Communications To and From the Board* and 2:240, *Board Policy Development*.
2. Establishing a "local school wellness committee." This method is discussed in the preamble to 7 C.F.R. §210.31(d)(1), which suggests "identifying individuals" to serve on a "local school wellness policy committee." However, the final text of 7 C.F.R. §210.31(d)(1) does not specifically require districts to establish a local school wellness policy committee – only that they "permit [groups listed in the policy above] to participate" See also the citation to the Federal Register, in the second paragraph of this *f/n*, above, discussing policy implementation discretion.

The default text of this policy follows item #1 above and does not establish a local school wellness committee. For a district that wants to appoint or approve a local school wellness committee, add the following optional sentence as the last sentence of this subhead: "As necessary, the Superintendent or designee will convene a Wellness Committee with at least one representative from each of the listed groups." Also list the Wellness Committee in 2:150-AP, *Superintendent Committees*. As much of the work of developing a plan to involve local stakeholders is administrative/staff work rather than governance work, best practice is for a Wellness Committee be an administrative committee, but consult the board attorney for guidance. See *f/n* 3 in policy 2:150, *Committees*, for a discussion of Open Meetings Act implications of the Wellness Committee being a board committee.

If a board wants to comply with the USDA's *encouragement* to include Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators or educators in the group to provide input about the policy, add:

“, Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators, educators” to the end of the first sentence in this subhead, immediately before: “, and community.”

²⁷ If a board has not adopted the **Community Engagement** subhead in policy 8:10, *Connection with the Community*, delete the phrase at the end of the second sentence: “Individuals shall align their suggestions and comments to policy 2:140, *Communications To and From the Board* and/or the **Community Engagement** subhead in policy 8:10, *Connection with the Community*.”

A board may also choose to post this policy on its website and include it in the student handbook.

Recordkeeping ²⁸

The Superintendent shall retain records to document compliance with this policy, the District's records retention protocols, and the Local Records Act.

LEGAL REF.: ~~Child Nutrition and WIC Reauthorization Act of 2004, Pub. L. 108-265, Sec. 204,~~
Child Nutrition and WIC Reauthorization Act of 2004.
~~Child Nutrition Act of 1966, 42 U.S.C. §1771 et seq., Child Nutrition Act of 1966,~~
National School Lunch Act, 42 U.S.C. §1751 et seq., National School Lunch Act.
~~Healthy, Hunger-Free Kids Act of 2010, 42 U.S.C. §1758b, Pub. L. 111-296,~~
Healthy, Hunger-Free Kids Act of 2010.
42 U.S.C. §1779, as implemented by 7 C.F.R. §§210.11 and 210.31.
~~Local Records Act, 50 ILCS 205/ Local Records Act.~~
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.: 2:140 (Communications To and From the Board), 2:150 (Committees), 2:240 (Board Policy Development), 4:120 (Food Services), 5:100 (Staff Development Program), 6:60 (Curriculum Content), 7:260 (Exemption from Physical Education), 8:10 (Connection with the Community)

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²⁸ 7 C.F.R. §210.31(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.

See f/n 22, above regarding the Local Records Act and 2:250-AP2, *Protocols for Record Preservation and Development of Retention Schedules*.



While 7 C.F.R. §210.31(f) does not require the policy text to state what records must be kept, a board that wants to include that information may insert the following text: "Records must include: (1) this policy; (2) documentation demonstrating compliance with community involvement, including requirements to make the policy and triennial assessments available to the public; and (3) documentation of the triennial assessment of this policy for each school under its jurisdiction."

17. First Reading of Revised Board of Education Policy 6:60 - Curriculum Content

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Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policy for Section 6:60 - Curriculum Content. **See Attachment No. 15.**

TO: Members of the Board of Education

FROM: Dr. Matt DeBaene, Assistant Superintendent for Secondary Teaching and Learning 
Dr. Brian Prybil, Assistant Superintendent for Elementary Teaching and Learning 

DATE: January 20, 2022

SUBJECT: Approve Board Policy 6:60 – Curriculum Content

Reason for Board Consideration: The Board of Education approves updated Board Policy.

Action Necessary: That the Board of Education approve the updated Board Policy.

Facts: In the continuing quest to update the District’s Board Policies, attached is Board Policy 6:60 – Curriculum Content, which was included as part of the November 2021 PRESS update review. This policy was just updated in October of 2019; however, PRESS did their quarterly review on all policies in November of 2021 and this reflects those updates.

The policy is updated to include language and guidance on the following items.

- “Dangers of opioid abuse.”
- “Daily time of at least 30 minutes (with a minimum of at least 15 consecutive minutes if divided) will be provided for supervised, unstructured, child-directed play for all students in kindergarten through grade 5.”
- “Anti-bias education and intergroup conflict resolution may be taught as an effective method for preventing violence and lessening tensions in schools; these prevention methods are most effective when they are respectful of individuals and their divergent viewpoints and religious beliefs, which are protected by the First Amendment to the Constitution of the United States.”
- “In all grades, students must receive developmentally appropriate opportunities to gain computer literacy skills that are embedded in the curriculum.”
- “In all schools, citizenship values must be taught, including: (a) American patriotism, (b) principles of representative government (the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois),”
- “Age-appropriate and evidence-informed sexual abuse and assault awareness and prevention education in all grades.”
- “Beginning in the fall of 2022, in grades 9 through 12, intensive instruction in computer literacy, which may be included as a part of English, social studies, or any other subject.”
- “Beginning in the fall of 2022, in grades 9 through 12, a unit of instruction on media literacy that includes, but is not limited to, all of the following topics: (a) accessing information to evaluate multiple media platforms and better understand the general landscape and economics of the platforms, and issues regarding the trustworthiness of the source of information; (b) analyzing and evaluating media messages to deconstruct media representations according to the authors, target audience, techniques, agenda setting, stereotypes, and authenticity to distinguish fact from opinion; (c) creating media to

convey a coherent message using multimodal practices to a specific target audience that includes, but is not limited to, writing blogs, composing songs, designing video games, producing podcasts, making videos, or coding a mobile software application; (d) reflecting on media consumption to assess how media affects the consumption of information and how it triggers emotions and behavior; and (e) social responsibility and civics to suggest a plan of action in the class, school, or community for engaging others in a respectful, thoughtful, and inclusive dialogue over a specific issue using facts and reason.”


- “Beginning in the fall of 2023, in grades 9 through 12, an opportunity for students to take at least one computer science course aligned to Illinois learning standards. *Computer science* means the student of computers and algorithms, including their principles, hardware and software designs, implementation, and impact on society. Computer science does not include the student of everyday uses of computers and computer applications; e.g., keyboarding or accessing the Internet.”
- “The contributions made to society by Americans of different faith practices, including, but not limited to, Muslim Americans, Jewish Americans, Christian Americans, Hindu Americans, Sikh Americans, Buddhist Americans, and any other collective community of faith that has shaped American.”
- “In all schools, the curriculum includes instruction as determined by the Superintendent or designee on Black History, including the history of the pre-enslavement of Black people from 3,000 BCE to AD 1619, the African slave trade, slavery in America, the student of the reasons why Black people came to be enslaved, the vestiges of slavery in this country, the student of the American civil rights renaissance, as well as the struggles and contributions of African- Americans.”
- “Beginning in the fall of 2022, in all schools, instruction as determined by the Superintendent or designee on the events of Asian American history, including the history of Asian Americans in Illinois and the Midwest, as well as the contributions of Asian Americans toward advancing civil rights from the 19th century onward, which must include the contributions made by individual Asian Americans in government and the arts, humanities, and sciences, as well as the contributions of Asian American communities to the economic, cultural, social, and political development of the United States.”

The footnotes and Legal References are updated as well. Recall the underlined text represents suggested new additions; whereas, the ~~striketrough~~ text represents suggested deletions.

Cost: None.

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy for Section 6:60 - Curriculum Content.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

Instruction

Curriculum Content 1

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 including the dangers of opioid abuse.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 Daily time of at least 30 minutes (with a minimum of at least 15 consecutive minutes if divided) will be provided for supervised, unstructured, child-directed play for all students in kindergarten through grade 5.⁶ Before the completion of grade 5, students will be offered

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

¹ Districts must have a policy on physical education (23 Ill.Admin.Code §1.425, amended by 42 Ill. Reg. 11540) and what grade level(s) students will be offered cursive writing instruction (105 ILCS 5/27-20.7, added by P.A. 100-548). 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, amended at 42 Ill. Reg. 11527, recommends that activities, including student internships and observations of government in action, be a part of the instructional program where appropriate.

State law mandates certain courses of study but local school boards may set requirements exceeding State-law mandated courses of study. 105 ILCS 5/10-20.8 and 5/27-1 et seq.

² 105 ILCS 5/2-3.156 requires the Ill. State Board of Education (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 and English language 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. See www.isbe.net/Documents/ccs-faq-0813.pdf.

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, amended by P.A. 102-195, requires that in addition to instruction, study, and discussion of effective methods for the prevention and avoidance of drugs and substance abuse, the subject must also cover the dangers of opioid abuse. House Resolution 824 (98th General Assembly, 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 5/27-6.3, added by P.A. 102-357. Schools must provide at least 30 minutes of play time for any school day five clock hours or longer in length. For any school days less than that, the total time allotted during the school day must be at least one-tenth of a day of attendance for the student. Time spent dressing or undressing for outdoor play may not count towards the daily time allotment. Play time must be computer-, tablet-, phone-, and video-free. Play time may be withheld as a disciplinary or punitive action only if a student's participation poses an immediate threat to the safety of the student or others. Id.

at least one unit of cursive instruction.⁷ ~~Beginning with the 2020-2021 school year,~~ in grades 6, 7, or 8, students must receive at least one semester of civics education in accordance with Illinois Learning Standards for social science.⁸

2. In grades 9 through 12, subjects include:⁹ (a) language arts, (b) writing intensive courses, (c) science, (d) mathematics,¹⁰ (e) social studies including U.S. history, American government and one semester of civics,¹¹ (f) foreign language,¹² (g) music, (h) art, (i) driver and safety education,¹³ and (j) vocational education.

Students otherwise eligible to take a driver education course must receive a passing grade in at least eight courses during the previous two semesters before enrolling in the course. The Superintendent or designee may waive this requirement if he or she believes a waiver to be in

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⁷ 105 ILCS 5/27-20.7, added by P.A. 100-548, requires districts to offer students a unit of cursive instruction before they complete grade 5. Other than before completing grade 5, the law is silent about what grade level(s) in which students must receive their unit of cursive instruction. This provides an opportunity for a board to have a conversation with the superintendent about local community expectations and direct him or her to determine the appropriate grade level(s) in which students will be offered a unit of cursive instruction.

Use the following alternative if the board wants to specify grade level(s) before the end of grade 5 in which cursive instruction will be offered:

A unit of cursive instruction will be offered in grade(s) _____.

⁸ 105 ILCS 5/27-3.10, added by P.A. 101-254, eff. 7-1-20. The statute specifically states that school districts may utilize private funding available for offering civics education.

⁹ 105 ILCS 5/27-22, amended by P.A.s 101-643 and 654; 23 Ill.Admin.Code §1.440. ISBE may adopt rules to modify these requirements for students in grades 9 through 12 if the Governor declares a disaster due to a public health emergency pursuant to 20 ILCS 3305/7. 105 ILCS 5/27-22(c)(3.5), amended by P.A. 101-654 requires "a year of a course that includes intensive instruction in computer literacy, which may be English, social studies, or any other subject." Because computer literacy may be included within another subject, it is not listed here, but in number 6 of this policy with f/n 25, below.

¹⁰ 105 ILCS 5/2-3.156. See f/n 2.

105 ILCS 5/27-22(e)(3), amended by P.A. 101-464, eff. 1-1-20, 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*.

¹¹ 105 ILCS 5/27-22(e)(5). The statute specifically states that school districts may utilize private funding available for offering civics education.

¹² The General Assembly encouraged school boards to implement American Sign Language courses into the school foreign language curriculum. 105 ILCS 5/10-20.52. Senate Joint Resolution 68 (96th General Assembly, 2010) encourages school districts to explore the introduction of Arabic as a foreign language in their curriculums.

¹³ The ISBE rule on driver education personnel is found at 23 Ill.Admin.Code §252.40, amended at 42 Ill. Reg. 8957. School districts may contract with a commercial driver training school (CDTS) for driver education. 105 ILCS 5/27-24.2, amended by P.A.s 100-465 and 101-450. To qualify to contract with a school district, a CDTS must: (a) hold a valid license issued by the Ill. Sec. of State; (b) provide teachers who meet the educator licensure and endorsement requirements under 105 ILCS 5/21B; and (c) follow the same evaluation and observation requirements that apply to non-tenured teachers under 105 ILCS 5/24-Aa. *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.* Although a formal waiver for outsourcing of driver's education is no longer required, districts must consider their applicable collective bargaining agreement(s), board policy, and the reduction in force (RIF) provisions of the School Code as they relate to outsourcing of instructional staff. Consult the board attorney for guidance.

A school district may decide to allow a student to take a portion of the driver education course through a distance learning course. This is determined on a case-by-case basis and must be approved by the district's administration, the student's driver's education teacher, and the student's parent/guardian. 105 ILCS 5/27-24.2, amended by P.A. 101-183, eff. 1-1-20; 23 Ill.Admin.Code §252.20(c)(2).

the student's best interest.¹⁴ The course shall include: (a) instruction necessary for the safe operation of motor vehicles, including motorcycles, to the extent that they can be taught in the classroom,¹⁵ (b) classroom instruction on distracted driving as a major traffic safety issue,¹⁶ (c) instruction on required safety and driving precautions that must be observed at emergency situations, highway construction and maintenance zones, and railroad crossings and their approaches,¹⁷ and (d) 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.¹⁸ 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.¹⁹ 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. ²⁰

3. In grades 7 through 12, as well as in interscholastic athletic programs, steroid abuse prevention must be taught. ²¹
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.²² In addition, anti-bias education and intergroup conflict resolution may be taught as an effective method for preventing violence and lessening tensions in schools; these prevention methods are most effective when they are

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¹⁴ 105 ILCS 5/27-24.1, amended by P.A. 102-455, eff. 1-1-22, and 5/27-24.2—amended by P.A. 100-465; 23 Ill.Admin.Code §252.20(c)(2).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ 105 ILCS 5/27-17.

²⁰ The Ill. Vehicle Code, 625 ILCS 5/6-408.5, 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 eight courses during the two 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 eight courses during the two 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.

²¹ 105 ILCS 5/27-23.3.

²² 105 ILCS 5/27-23.4.

respectful of individuals and their divergent viewpoints and religious beliefs, which are protected by the First Amendment to the Constitution of the United States. ²³

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. ²⁴

6. In all grades, students must receive developmentally appropriate opportunities to gain computer literacy skills that are embedded in the curriculum. ²⁵

5-7. 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. ²⁶ Instruction in all grades will include

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²³ Optional. 105 ILCS 5/27-23.6 entitled *Anti-bias education* allows districts to incorporate activities to address intergroup conflict, with the objectives of improving intergroup relations on and beyond the school campus, defusing intergroup tensions, and promoting peaceful resolution of conflict.

Boards that adopt a policy to incorporate activities to address intergroup conflict pursuant to this law must make information available to the public that describes the manner in which the district has implemented the activities. Methods for making this information available include: the district's website, if any, and in the district's offices upon request. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Districts may also include the information in a student handbook and in district newsletters. The Ill. Principals Association (IPA) maintains a handbook service that coordinates with PRESS material. Online Model Student Handbook (MSH), at: www.ilprincipals.org/resources/model-student-handbook.

See f/n 12 in sample policy 6:180, *Extended Instructional Programs*, and ensure that these policies align.

²⁴ 47 C.F.R. § 54.520 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)(i).

105 ILCS 5/27-13.3 only requires a unit on Internet safety for students in grades 3 or above. It recommends 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.

For boards that do not receive E-rate funds, but want to exceed the requirements of the 105 ILCS 5/27-13.3 to include grades K-2, replace this section with the following sentences:

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. In kindergarten through grade 2, age-appropriate Internet safety must be taught.

²⁵ 105 ILCS 5/10-20.73 (final citation pending), 5/10-20.74, and 5/27-22(e)(3.5), added by P.A. 101-654. 105 ILCS 5/10-20.74, added by P.A. 101-654, requires that districts submit an annual report to ISBE regarding educational technology capacities and policies. See the subhead *Educational Technology Committee* and f/n 20 in 2:150-AP, *Superintendent Committees*.

²⁶ 105 ILCS 5/27-12.

examples of behaviors that violate policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.²⁷

~~6-8.~~ In all schools, citizenship values must be taught, including: (a) American patriotism, (b) democratic principles of representative government (the American Declaration of Independence, the Constitution of the United States of America and the Constitution of the State of Illinois) ~~freedom, justice, and equality~~, (c) proper use and display of the American flag, (d) the Pledge of Allegiance, and (e) the voting process.²⁸

~~7-9.~~ 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 in a physical education course with such frequency as determined by the Board after recommendation from the Superintendent,²⁹ but at a minimum of three days per five-day week.³⁰ 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 Education*.³¹

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²⁷ Required as part of a district's Bullying Prevention and Response Plan pursuant to 105 ILCS 5/27-23.7. Because of the negative outcomes associated with bullying in schools, the Ill. General Assembly has 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). This language aligns with policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, which requires bullying prevention instruction as part of a district's Bullying Prevention and Response Plan.

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." See 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."

²⁸ 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. See also *Palmer v. City of Chicago*, 466 F. Supp. 600 (N.D. Ill. 1979) (teacher would not teach and direct the Pledge of Allegiance to the flag of the United States for religious reasons and was terminated for not doing so because it was part of the curriculum). 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 Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943); *Sherman v. Community Consol. Sch. 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.

²⁹ The phrase "after recommendation by the Superintendent" is optional. If a superintendent does not bring this topic to the board for discussion, the board may not have a trigger to make the determination.

³⁰ 23 Ill.Admin.Code §1.425(b), amended at 42 Ill. Reg. 11540. Boards that want their daily physical education requirement to align with their goal in policy 6:50, *School Wellness*, may replace "minimum of three days per five-day week" with their local daily requirements. See ¶n 10 in policy 6:50, *School Wellness*.

³¹ 105 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, amended by P.A. 100-465, describes when students may be excused from P.E. See also 23 Ill.Admin.Code §1.425(d), amended at 42 Ill. Reg. 11540.

105 ILCS 5/27-6, amended by P.A. 100-465, contains an exception to the minimum of three days per five-day week P.E. requirement for schools engaged in block scheduling; if this is applicable, substitute this sentence for the second-to-last sentence in this paragraph:

8-10. In all schools, health education must be stressed, including:³² (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 and evidence-informed sexual abuse and assault awareness and prevention education in all grades.³³ The Superintendent shall implement a comprehensive health education program in accordance with State law.³⁴

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Unless otherwise exempted, all students are required to engage with such frequency as determined by the Board, but at a minimum of three days per five-day week, during the school day, except on block scheduled days, 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 at: www.isbe.net/Pages/Physical-Education-and-Health.aspx. See also 23 Ill.Admin.Code §1.425 (f) and (h), amended at 42 Ill. Reg. 11540; ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers* (Rev. 2017-15-18) at: www.isbe.net/Documents/fitness-asmt-faq.pdf.

www.isbe.net/Documents/Physical_Fitness_Assessment_FAQ.pdf#search=Fitness%20Assessments%20and%20Data%20Reporting%20Requirements%20Questions%20and%20Answerswww.isbe.net/Documents/Physical_Fitness_Assessment_FAQ.pdf#search=Fitness%20Assessments%20and%20Data%20Reporting%20Requirements%20Questions%20and%20Answers.

105 ILCS 5/27-7 describes the goals and requirements for P.E. courses; these are re-stated in this sample policy.

³² Citations for letters (a) - (e), required by the Comprehensive Health Education Program (105 ILCS 110/3) 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 Ill. Dept. of 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, amended by P.A. 102-610 a/k/a *Erin's Law* (child sexual abuse prevention). While 105 ILCS 5/10-23.13(b) states pre-K through 12th, this policy uses *all grades* for brevity and ease of administration. *Erin's Law* requires a policy addressing child sexual abuse prevention and curriculum content on that subject (see sample policy 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*). A sentence in 6:60-AP1, *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.net/Documents/erins-law-final0512.pdf, which was the basis for HB 1975 text, which did not pass in the first half of the 102nd Ill. General Assembly but is used as the basis for sample content to implement P.A. 102-610 due to that Public Act's vagueness. The professional educator training component of *Erin's Law* is addressed in policies 5:90, *Abused and Neglected Child Reporting* and 5:100, *Staff Development Program*. The Report also encouraged parental involvement because parents play a key role in protecting children from child sexual abuse.

³³ See fn 11 in sample policy 4:165, *Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors*, for a definition of *evidence-informed*. 105 ILCS 5/10-23.13, amended by P.A. 102-610.

³⁴ 105 ILCS 110/3, amended by P.A.s 101-305 and P.A. 102-464, eff. 1-1-20, 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, 105 ILCS 110/.

More detailed critical health problems and comprehensive health education program content is described in administrative procedure 6:60-AP1, *Comprehensive Health Education Program*. That procedure follows the Comprehensive Health Education Program law (CHEP), 105 ILCS 110/3, amended by P.A. 102-464, and it formerly included the requirements for the development of thea now-repealed family life and sex education programs in (105 ILCS 5/27-9.1 and 9.2, amended by P.A.s 100-684, and 101-579, eff. 1-1-20, 102-412 and repealed by P.A. 102-522).

The former family life and sex education programs were replaced with the National Sex Education Standards (NSES) (105 ILCS 5/27-9.1a, added by P.A. 102-522) and a developmentally appropriate consent education curriculum (105 ILCS 5/27-9.1b, added by P.A. 102-522), and But at the time of PRESS Issue 108's publication, the term *family life*, "including evidence-based and medically accurate information regarding sexual abstinence," remained in the CHEP (105 ILCS 110/3, amended by P.A. 102-464). The CHEP also includes many other health education topics that all elementary and secondary schools in Illinois must provide, including teen dating violence (105 ILCS 110/3.10, see 7:185, *Teen Dating Violence Prohibited*, for the required "teen dating violence policy") and cardiopulmonary resuscitation and automated external defibrillator use. (105 ILCS 110/3.1d.)

- 9-11. 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, and (e) if possible, a student work program that provides the student with work experience as

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For ease of administration, 6:60-AP1, *Comprehensive Health Education Program*, content includes reference to the new NSES curriculum that is outlined in more detail at 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*, 105 ILCS 5/27-9.1a, added by P.A. 102-522. While the NSES law is effective immediately, ISBE has until 8-1-22 to develop its learning standards and resources, and at the time of PRESS Issue 108's publication, no guidance existed about whether districts that provide the now-repealed family life and sex education programs formerly in 105 ILCS 5/27-9.1 and 9.2, repealed by P.A. 102-522, could continue to do so for: (a) their 21-22 school years, and/or (b) continuing into the 22-23 school year and school years beyond that into the future. Consult the board attorney if the district offered the now-repealed family life and sex education program to assess whether that program may continue during the 21-22 school and/or school years beyond.

Two choices exist for school boards related to providing students with a sex education curriculum:

1. No sex education; or
2. NSES a/k/a Comprehensive Personal Health and Safety and Sexual Health Education Program (105 ILCS 5/27-9.1a, added by P.A. 102-522, and see 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*).

While boards are not required to include sex education curriculum information in their policies, if they offer it, the new law requires them to identify the curriculum their districts use along with the name and contact information, including an email address, of a school staff member who can respond to inquiries about instruction and materials. 105 ILCS 5/27-9.1a(e), added by P.A. 102-522. Methods for making this information available include: the district's website, if any, and in the district's offices upon request. See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*.

For boards that do offer NSES but do not wish to communicate it in this policy, ensure that superintendents: (1) identify the curriculum along with the name and contact information, including an email address of the school staff member designated to respond to inquiries about instruction and materials (see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*); and (2) implement both 6:60-AP1, *Comprehensive Health Education Program*, and 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*.

For boards that want to communicate to their communities in this policy that they offer NSES, insert the following text into the last sentence in number 10:

The Superintendent shall implement a comprehensive health education program in accordance with State law, including a personal health and safety and sexual health education program (National Sex Education Standards) pursuant to 105 ILCS 5/27-9.1a.

Legal Reference insertions are not necessary with the statute in the text of the policy. Ensure: (1) the implementation of both 6:60-AP1, *Comprehensive Health Education Program* and 6:60-AP2, *Comprehensive Personal Health and Safety and Sexual Health Education Program (National Sex Education Standards (NSES))*, align with this policy; and (2) that the superintendent identifies the curriculum along with the name and contact information, including an email address of the school staff member designated to respond to inquiries about instruction and materials (see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*).

For boards that communicated NSES in this policy and also want to communicate that they additionally offer developmentally appropriate consent education curriculum, insert the following sentence as the last sentence of the number 10 paragraph:

The Superintendent shall also implement a developmentally appropriate consent education curriculum pursuant to 105 ILCS 5/27-9.1b.

Legal Reference insertion is not necessary with the statute in the text of the policy. Ensure the implementation of 6:60-AP3, *Developmentally Appropriate Consent Education*, aligns with this policy.

For boards that do offer NSES and do not communicate that in policy AND/OR boards that do not offer NSES, but want to communicate that they offer developmentally appropriate consent education curriculum, insert the following text into the last sentence in number 10:

The Superintendent shall implement a comprehensive health education program in accordance with State law, including a developmentally appropriate consent education curriculum pursuant to 105 ILCS 5/27-9.1b.

Legal Reference insertion is not necessary with the statute in the text of the policy. Ensure that implementation of 6:60-AP3, *Developmentally Appropriate Consent Education*, aligns with this policy.

an extension of the regular classroom. A career awareness and exploration program must be available at all grade levels.³⁵

12. 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.^{36 37}
13. Beginning in the fall of 2022, in grades 9 through 12, intensive instruction in computer literacy, which may be included as a part of English, social studies, or any other subject.³⁸
14. Beginning in the fall of 2022, in grades 9 through 12, a unit of instruction on media literacy that includes, but is not limited to, all of the following topics: (a) accessing information to evaluate multiple media platforms and better understand the general landscape and economics of the platforms, and issues regarding the trustworthiness of the source of information; (b) analyzing and evaluating media messages to deconstruct media representations according to the authors, target audience, techniques, agenda setting, stereotypes, and authenticity to distinguish fact from opinion; (c) creating media to convey a coherent message using multimodal practices to a specific target audience that includes, but is not limited to, writing blogs, composing songs, designing video games, producing podcasts, making videos, or coding a mobile or software application; (d) reflecting on media consumption to assess how media affects the consumption of information and how it triggers emotions and behavior; and (e) social responsibility and civics to suggest a plan of action in the class, school, or

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³⁵ 23 Ill.Admin.Code §1.420(i). See 105 ILCS 435/, Vocational Education Act.

A unit or high school district may offer workplace preparation instruction in grades 9 through 12 that covers legal protections in the workplace, including protection against sexual harassment and racial and other forms of discrimination and protections for employees. 105 ILCS 5/27-23.1413 (final citation pending), added by P.A. 101-347, eff. 1-1-20.

For high school and unit boards, insert “5/27-23.1413 (final citation pending),” after 105 ILCS 5/27-23.11 in the Legal References or if a board offers a course on hunting safety as part of its curriculum during the school day (see the option in f/n 52 below), after its Legal Reference 105 ILCS 5/27-23.13, and the following text to the end of number 1140 if the board wants to offer workplace preparation instruction:

In grades 9-12, workplace preparation instruction will be offered, covering legal protections in the workplace, including protection against sexual harassment and racial and other forms of discrimination and protections for employees.

³⁶ 105 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.

³⁷ For high school and unit boards that want to offer a unit of instruction about the process of naturalization pursuant to 105 ILCS 5/27-23.15, added by P.A. 102-472, insert an optional number 13, and amend numbers after it accordingly:

13. In grades 9 through 12, a unit of instruction about the process of naturalization by which a foreign citizen or foreign national becomes a U.S. citizen that includes content from the components of the naturalization test administered by the U.S. Citizenship and Immigration Services.

³⁸ 105 ILCS 5/27-22(c)(3,5), added by P.A. 101-654. At the time of PRESS Issue 108’s publication, no definition or further information from ISBE existed about what *computer literacy* means. A common sense approach presumes the term includes those concepts carved out of computer science, such as everyday use of computers, keyboarding, accessing the Internet, etc.

community for engaging others in a respectful, thoughtful, and inclusive dialogue over a specific issue using facts and reason. ³⁹

~~10-15.~~ Beginning in the fall of 2023, in grades 9 through 12, an opportunity for students to take at least one computer science course aligned to Illinois learning standards. Computer science means the study of computers and algorithms, including their principles, hardware and software designs, implementation, and impact on society. Computer science does not include the study of everyday uses of computers and computer applications; e.g., keyboarding or accessing the Internet. ⁴⁰

~~11-16.~~ 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. ⁴¹

~~12-17.~~ In all schools, United States (U.S.) 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, (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, (f) a study of the roles and contributions of lesbian, gay, bisexual, and transgender (LGBT) people in the history of the U.S. and Illinois, and (g) Illinois history, and (h) the contributions made to society by Americans of different faith practices, including, but not limited to, Muslim Americans, Jewish Americans, Christian Americans, Hindu Americans, Sikh Americans, Buddhist Americans, and any other collective community of faith that has shaped America. ⁴²

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

³⁹ 105 ILCS 5/27-20.08, added by P.A. 102-55. Media literacy means the ability to access, analyze, evaluate, create, and communicate using a variety of objective forms, including, but not limited to, print, visual, audio, interactive, and digital texts.

⁴⁰ Optional until fall 2023; 105 ILCS 5/27-23.15(b), added by P.A. 101-654.

⁴¹ 105 ILCS 5/27-13.1; 23 Ill.Admin.Code §1.420(I)-amended at 42 Ill. Reg. 11535.

⁴² 105 ILCS 5/27-21, amended by P.A. § 101-227, eff. 7-1-20 (adding the roles and contributions of LGBT people in U.S. and Illinois), and P.A. 101-341, eff. 1-1-20 (beginning with the 2020-2021 school year, adding Illinois history), -101-643 (during a public health emergency, allowing schools to obtain demonstrated evidence from students remotely that they have comprehensive knowledge of United States history), and 102-411 (adding contributions made to society by Americans of different faith practices); 23 Ill.Admin.Code §1.420(r). “[O]btain demonstrated evidence from students remotely” is not clear. The practical reading is that it refers to teachers collecting evidence through remote assessments when students are engaged in a remote learning program during a disaster declaration due to a public health emergency.

105 ILCS 5/27-21, amended by P.A. 101-643, does not specify at what grade level districts must cover these topics as part of U.S. history instruction; however, no student may graduate from grade 8 unless the student has received instruction in U.S. history and demonstrated comprehensive knowledge of the subject matter.

For guidance about the requirements of adding the roles and contributions of LGBT people in U.S. and Illinois, see:

1. Inclusive Curriculum Law Frequently Asked Questions (FAQs) at: www.phime.org/wp-content/uploads/2020/05/Inclusive-Curriculum-FAQs.pdf;
2. Inclusive Curriculum Law Overview at: www.phime.org/wp-content/uploads/2020/05/Inclusive-Curriculum-One-Page.pdf; and
3. Inclusive Curriculum Implementation Guidance (Condensed Edition) at: www.isbe.net/Documents/Support-Students-Implementation-Guidance.pdf.

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. ⁴³

~~13-18.~~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. ⁴⁴

~~14-19.~~In all schools, the curriculum includes instruction as determined by the Superintendent or designee 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. ⁴⁵

~~15-20.~~In all schools, the curriculum includes instruction as determined by the Superintendent or designee on the history, struggles, and contributions of women. ⁴⁶

~~16-21.~~In all schools, the curriculum includes instruction as determined by the Superintendent or designee on Black History, including the history of the pre-enslavement of Black people from 3,000 BCE to AD 1619, the African slave trade, slavery in America, the study of the reasons why Black people came to be enslaved, and the vestiges of slavery in this country, the study of the American civil rights renaissance, as well as the struggles and contributions of African-Americans. ⁴⁷

~~17-22.~~In all schools offering a secondary agricultural education program, the curriculum includes courses as required by 105 ILCS 5/2-3.80. ⁴⁸

~~23.~~ In all schools, instruction during courses as determined by the Superintendent or designee on disability history, awareness, and the disability rights movement. ⁴⁹

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

⁴³ Section 111 of Division J of Pub. L. 108-447, the Consolidated Appropriations Act, 2005, 12-8-04; 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 for the student served by the educational institution.”

⁴⁴ 105 ILCS 5/27-3.5. The Congressional Medal of Honor film is available on ISBE’s website for no cost at: www.isbe.net/Pages/Medal-of-Honor.aspx.

⁴⁵ 105 ILCS 5/27-20.3. 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.

⁴⁶ 105 ILCS 5/27-20.5. 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. House Resolution 365 (98th General Assembly, 2013) and Senate Resolution 1073 (98th General Assembly, 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.

⁴⁷ 105 ILCS 5/27-20.4, amended by P.A. 101-654. 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. A school may meet this curriculum requirement through an online program or course. ~~Id. as amended by P.A. 100-634.~~

⁴⁸ 105 ILCS 5/2-3.80(e) or (f), as applicable.

18-24. Beginning in the fall of 2022, in all schools, instruction as determined by the Superintendent or designee on the events of Asian American history, including the history of Asian Americans in Illinois and the Midwest, as well as the contributions of Asian Americans toward advancing civil rights from the 19th century onward, which must include the contributions made by individual Asian Americans in government and the arts, humanities, and sciences, as well as the contributions of Asian American communities to the economic, cultural, social, and political development of the United States. ⁵⁰

19-25. In kindergarten through grade 8, education must be available to students concerning effective methods of preventing and avoiding traffic injuries related to walking and bicycling.
51 52

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

⁴⁹ 105 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.

⁵⁰ 105 ILCS 5/27-20.8, added by P.A. 102-44. Id. at (c) states that the regional superintendent of schools [or Intermediate Service Center Executive Director, whichever is appropriate] will monitor districts' compliance with this law during the annual compliance review visits. Districts may meet this law's requirements through online programs or courses. Id. at (d). 105 ILCS 5/3-0.01 states any reference to "regional superintendent" include the chief administrative officer of Intermediate Service Centers established under 105 ILCS 5/2-3.62.

⁵¹ 105 ILCS 5/27-23.11, added by P.A. 100-1056, requires districts that maintain any of the grades kindergarten through 8 to adopt a policy. The law is silent about how to educate students on this topic. See 6:60-AP1, E2, *Resources for Biking and Walking Safety Education*, for additional information.

⁵² A school district may offer a course on hunting safety as part of its curriculum during the school day. 105 ILCS 5/27-23.13 (final citation pending), added by P.A. 101-152. No grade levels are specified in the statute. Insert "5/27-23.13 (final citation pending)," after 105 ILCS 5/27-23.11 in the Legal References, and an optional number 262+, if the board wants to offer a course on hunting safety as part of its curriculum:

In grade(s) [insert grade level(s)], a course on hunting safety will be offered during the school day.

LEGAL REF.: Pub. L. No. 108-447, Section 111 of Division J, Consolidated Appropriations Act of 2005.
Pub. L. No. 110-385, Title II, 122 stat. 4096 (2008), Protecting Children in the 21st Century Act.
47 C.F.R. §54.520.
5 ILCS 465/3 and 465/3a.
20 ILCS 2605/2605-480.
105 ILCS 5/2-3.80(e) and (f), 5/10-20.73 (final citation pending), 5/10-23.13, 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, 5/27-20.08, 5/27-20.3, 5/27-20.4, 5/27-20.5, 5/27-20.7, 5/27-20.8, 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, 5/27-23.11, 5/27-23.15, 5/27-24.1, and 5/27-24.2;
105 ILCS 435/, and 110/3, Comprehensive Health Education Program.
105 ILCS 435/, Vocational Education Act.
625 ILCS 5/6-408.5, Ill. Vehicle Code.
23 Ill. Admin. Code §§1.420, 1.425, 1.430, and 1.440.

CROSS REF.: 4:165 (Awareness and Prevention of Child Sex Abuse and Grooming Behaviors), 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 Behavior), 7:260 (Exemption from Physical Education)

18. First Reading of Revised Board of Education Policy 6:135 - Accelerated Placement Program

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Recommended Motion: that the Board of Education accept for first reading the revised Board of Education policy for Section 6:135 - Accelerated Placement Program. **See Attachment No. 16.**

TO: Members of the Board of Education

FROM: Dr. Matt DeBaene, Assistant Superintendent for Secondary Teaching and Learning ^{MD}
Dr. Brian Prybil, Assistant Superintendent for Elementary Teaching and Learning ^{BP}

DATE: January 20, 2022

SUBJECT: Approve Board Policy 6:135 – Accelerated Placement Program

Reason for Board Consideration: The Board of Education approves updated Board Policy.

Action Necessary: That the Board of Education approve the updated Board Policies.

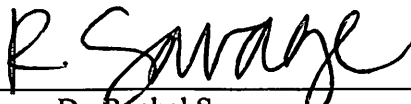
Facts: In the continuing quest to update the District’s Board Policies, attached is Board Policy 6:135 – Accelerated Placement Program, which was included as part of the November 2021 PRESS update review. This policy was just updated in March of 2020; however, PRESS did their quarterly review on all policies in November of 2021 and this reflects those updates.

The policy is updated to include language and guidance on the “automatic enrollment, in the following school term, of a student into the next most rigorous level of advanced coursework offered by the high school if the student meets or exceeds State standards in English language arts, mathematics, or science on a State assessment” and “including strategies to reach groups of students and families who have been historically underrepresented in accelerated placement programs and advanced coursework.” The footnotes and Legal References are updated as well. Recall the underlined text represents suggested new additions; whereas, the ~~strike through~~ text represents suggested deletions.

Cost: None.

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy for Section 6:135 – Accelerated Placement Program.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

Instruction

Accelerated Placement Program 1

The District provides an Accelerated Placement Program (APP). The APP advances the District’s goal of providing educational programs with opportunities for each student to develop to his or her maximum potential.² The APP provides an educational setting with curriculum options usually reserved for students who are older or in higher grades than the student participating in the APP.³ APP options include, but may not be limited to: (a) accelerating a student in a single subject; (b) other grade-level acceleration; and (c) early entrance to kindergarten or first grade.⁴ Participation in the APP is open to all students who demonstrate high ability and who may benefit from accelerated placement. It is not limited to students who have been identified as gifted and talented.⁵ Eligibility to participate in the District’s APP shall not be conditioned upon the protected classifications identified in School Board policy 7:10, *Equal Educational Opportunities*, or any factor other than the student’s identification as an accelerated learner.⁶

The Superintendent or designee shall implement an APP that includes:

1. Decision-making processes that are fair, equitable, and involve multiple individuals, e.g. District administrators, teachers, and school support personnel, and a student’s parent(s)/guardian(s);⁷
2. Notification processes that notify a student’s parent(s)/guardian(s) of a decision affecting a student’s participation in the APP;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 requires this subject matter be covered by policy and controls its content. 105 ILCS 5/14A, amended by P.A. 100-421 (the Accelerated Placement Act (APA)); 23 Ill.Admin.Code Part 227. Ill. State Board of Education (ISBE) rules require this policy to be posted on the district website, if available. 23 Ill.Admin.Code §227.60(a). ISBE rules also require districts to annually report, by July 31, demographic information regarding students participating in accelerated placement. 23 Ill.Admin.Code §227.60(c).

² Optional. Ensure this statement matches the board’s current educational philosophy and objectives. See sample policy 6:10, *Educational Philosophy and Objectives*.

³ 105 ILCS 5/14A-17, added by P.A. 100-421; 23 Ill.Admin.Code §227.5.

⁴ Id. For high school districts, delete “; and (c) early entrance to kindergarten or first grade” and insert the word “and” between (a) and (b).

Attorneys disagree whether the APA conflicts with 105 ILCS 5/10-20.12 (*School year – School age*). The APA requires accelerated placement to include “early entrance to kindergarten or first grade.” 105 ILCS 5/14A-17. 105 ILCS 5/10-20.12 *permits* districts to offer early entrance to kindergarten or first grade “based upon an assessment of the student’s readiness to attend school.” 105 ILCS 5/10-20.12 also states that students may enter first grade early when they: (1) are assessed for readiness; (2) have attended a non-public preschool and continued their education at that school through kindergarten; (3) were taught in kindergarten by an appropriately certified teacher; and (4) will attain the age of 6 years on or before December 31. Id. See sample policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*. **Consult the board attorney for guidance.**

⁵ 105 ILCS 5/14A-32(a)(1), added by P.A. 100-421; 23 Ill.Admin.Code §227.5.

⁶ 105 ILCS 5/14A-25, amended by P.A. 100-421.

⁷ 105 ILCS 5/14A-32(a)(2), added by P.A. 100-421, requires that the accelerated placement policy include “a fair and equitable decision-making process that involves multiple persons and includes a student’s parents or guardians” but does not specify what individuals are to be involved or limit those individuals to district employees. Amend this listing to align with the local board’s preference.

3. Assessment processes that include multiple valid, reliable indicators; and⁹
4. By the fall of 2023, the automatic enrollment, in the following school term, of a student into the next most rigorous level of advanced coursework offered by the high school if the student meets or exceeds State standards in English language arts, mathematics, or science on a State assessment administered under 105 ILCS 5/2-3.64a-5, as follows:¹⁰
 - a. A student who meets or exceeds State standards in English language arts shall be automatically enrolled into the next most rigorous level of advanced coursework in English, social studies, humanities, or related subjects.
 - b. A student who meets or exceeds State standards in mathematics shall be automatically enrolled into the next most rigorous level of advanced coursework in mathematics.
 - a.c. A student who meets or exceeds State standards in science shall be automatically enrolled into the next most rigorous level of advanced coursework in science.

The Superintendent or designee shall annually notify the community, parent(s)/guardian(s), students, and school personnel about the APP, the process for referring a student for possible evaluation for accelerated placement, and the methods used to determine whether a student is eligible for accelerated placement, including strategies to reach groups of students and families who have been historically underrepresented in accelerated placement programs and advanced coursework.¹¹ Notification may: (a) include varied communication methods, such as student handbooks and District or school websites; and (b) be provided in multiple languages, as appropriate.¹²

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

⁸ 105 ILCS 5/14A-32Id. at (a)(3), added by P.A. 100-421.

⁹ 105 ILCS 5/14A-32Id. at (a)(4), added by P.A. 100-421.

¹⁰ Required by 105 ILCS 5/14A-32(a-5), added by P.A. 101-654 and amended by P.A. 102-209, for all districts, including elementary-only districts. Though not explained in the statute, this is likely because State assessments in English language arts, mathematics, and science are required in grades 3 through 8 (105 ILCS 5/2-3.64a-5) and a student's State assessment results may place the student in high school courses. Consult the board attorney about practical implementation issues for an elementary school district, e.g., what to do if the elementary school district does not have a program for students to enroll in high school courses (see sample policy 6:315, *High School Credit for Students in Grade 7 or 8*), or if the elementary school district would like to offer advanced coursework not offered by the high school.

A district must provide the parents/guardians of a student eligible for automatic enrollment with the option to instead enroll in alternative coursework that better aligns with the student's postsecondary education or career goals. For a student entering grade 12, the next most rigorous level of advanced coursework in English language arts or mathematics must be a dual credit course (as defined in the Dual Credit Quality Act, 110 ILCS 27/5), an Advanced Placement course (as defined in the College and Career Success for All Students Act, 105 ILCS 302/10), or an International Baccalaureate course. The same is true for all other subjects, except that the next most rigorous level of advanced coursework may also include an honors class, an enrichment opportunity, a gifted program, or another program offered by the district. 105 ILCS 5/14A-32(a-5), added by P.A. 101-654 and amended by P.A. 102-209. See 6:135-AP, *Accelerated Placement Program Procedures*.

¹¹ Optional. 105 ILCS 5/14A-32(b)(1), amended by P.A. 101-654, permits, but does not require "procedures for annually informing the community at-large, including parents or guardians, community-based organizations, and providers of out-of-school programs, about the accelerated placement program and the methods used for the identification of children eligible for accelerated placement, including strategies to reach groups of students and families who have been historically underrepresented in accelerated placement programs and advanced coursework[.]"

¹² Optional. 105 ILCS 5/14A does not require this but it is a recommended best practice and aligns with sample policy 7:10, *Equal Educational Opportunities*.


LEGAL REF.: 105 ILCS 5/14A.
23 Ill.Admin.Code Part 227, Gifted Education.

CROSS REF.: 6:10 (Educational Philosophy and Objectives), 6:130 (Program for the Gifted),
7:10 (Equal Educational Opportunities), 7:50 (School Admissions and Student
Transfers To and From Non-District Schools)

DRAFT

Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policies for School Board Sections 7:10 - Equal Education Opportunities, 7:20 - Harassment of Students Prohibited, 7:30 - Students Assignment and Intra-District Transfer, 7:50 - School Admissions and Student Transfers To and From Non-District Schools, 7:60 - Residence, 7:150 - Agency and Police Interviews, 7:190 - Student Behavior, 7:200 - Suspension Procedures, 7:210 - Expulsion Procedures, 7:240 - Conduct Code for Participants in Extracurricular Activities, 7:250 - Student Support Services, 7:260 - Exemption from Physical Education, 7:310 - Restrictions on Publications: Elementary Schools, 7:340 - Student Records, 7:345 - Use of Educational Technologies; Student Data Privacy and Security. **See Attachment No. 17.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services 

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policies for Section 7, Students

Reason for Board Consideration: The Board of Education approves updated Board Policy.

Action Necessary: That the Board of Education approve the updated Board Policies.

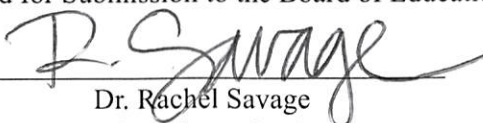
Facts: In the continuing quest to update the District's Board Policies, attached are a portion of Section 7 with suggested changes based on PRESS recommendations. Administration is requesting the Board accept updates for Section 7, Students, which are minor in stylistics, footnote or reference changes. Recall the underlined text represents suggested new additions; whereas, the ~~strikethrough~~ text represents suggested deletions.

Based on PRESS recommendation and administration review, it is the recommendation of administration that the Board of Education accept for first reading revised Board of Education Policies for School Board Sections 7:10 - Equal Education Opportunities, 7:20 - Harassment of Students Prohibited, 7:30 - Students Assignment and Intra-District Transfer, 7:50 - School Admissions and Student Transfers To and From Non-District Schools, 7:60 - Residence, 7:150 - Agency and Police Interviews, 7:190 - Student Behavior, 7:200 - Suspension Procedures, 7:210 - Expulsion Procedures, 7:240 - Conduct Code for Participants in Extracurricular Activities, 7:250 - Student Support Services, 7:260 - Exemption from Physical Education, 7:310 -Restrictions on Publications:Elementary Schools, 7:340 - Student Records, 7:345 - Use of Educational Technologies; Student Data Privacy and Security.

Cost: None.

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policies for School Board Sections 7:10 - Equal Education Opportunities, 7:20 - Harassment of Students Prohibited, 7:30 - Students Assignment and Intra-District Transfer, 7:50 - School Admissions and Student Transfers To and From Non-District Schools, 7:60 - Residence, 7:150 - Agency and Police Interviews, 7:190 - Student Behavior, 7:200 - Suspension Procedures, 7:210 - Expulsion Procedures, 7:240 - Conduct Code for Participants in Extracurricular Activities, 7:250 - Student Support Services, 7:260 - Exemption from Physical Education, 7:310 -Restrictions on Publications:Elementary Schools, 7:340 - Student Records, 7:345 - Use of Educational Technologies; Student Data Privacy and Security.

Approved for Submission to the Board of Education


Dr. Rachel Savage
Superintendent of Schools

Students

Equal Educational Opportunities 1

Equal educational and extracurricular opportunities shall be available for all students without regard to color, race, nationality, religion, sex, sexual orientation, ancestry, age, physical or mental disability, gender identity,² status of being homeless, immigration status, order of protection status, actual or potential marital or parental status, including pregnancy.³ Further, the District will not knowingly enter into agreements with any entity or any individual that discriminates against students on the basis of sex or any other protected status, except that the District remains viewpoint neutral when granting access to school facilities under School Board policy 8:20, *Community Use of School*

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 and controls this policy's content.

² Adopting separate policies or inserting policy statements about accommodations and inclusion of transgender students in the educational program are unsettled areas of the law. Some lawyers believe doing so may open boards to equal protection challenges for not creating separate policies for other protected statuses, e.g., race, nationality, religion, etc. Executive Order (EO) 2019-11, titled "Strengthening Our Commitment to Affirming and Inclusive Schools" established the Affirming and Inclusive Schools Task Force (Task Force) to identify strategies and best practices for ensuring welcoming, safe, supportive, and inclusive school environments for transgender, nonbinary, and gender nonconforming students. The Task Force delivered a report that served as the basis for two non-regulatory guidance documents entitled *Supporting Transgender, Nonbinary and Gender Nonconforming Students* and *Sample District Policy and Administrative Procedures at www.isbe.net/supportallstudents*. The Ill. State Board of Education (ISBE) hosts these documents on its website.

Consult the board attorney if your board wishes to adopt a separate policy or insert policy statements about accommodations and inclusion of transgender students.

For boards that want to incorporate ISBE's *Sample District Policy and Administrative Procedures* policy recommendation into this policy, insert the following in place of "gender identity": gender, gender identity (whether or not traditionally associated with the student's sex assigned at birth), gender expression.

If the board inserts this option, it must also insert the options in f/n 7, below and in f/n 2 of sample policy 7:20, *Harassment of Students Prohibited*, BUT NOTE THE PROTECTED STATUSES LIST IN THIS POLICY IS DIFFERENT AND SHOULD NOT BE COPIED FROM HERE INTO 7:20, *HARASSMENT OF STUDENTS PROHIBITED*.

See 7:10-AP1, *Accommodating Transgender Students or Gender Non-Conforming Students*, for a case-by-case procedure that school officials may use when a student requests an accommodation based upon his or her gender identity.

For a list of policies that address the equal educational opportunities, health, safety, and general welfare of students within the District, see 7:10-E, *Equal Educational Opportunities Within the School Community*.

³ Many civil rights laws guarantee equal education opportunities; see citations in the Legal References.

In 23 Ill.Admin.Code §1.240, ISBE states that "no school system may deny access to its schools or programs to students who lack documentation of their immigration status or legal presence in the United States, and no school system may inquire about the immigration status of a student (*Plyler v. Doe*, 457 U.S. 202 (1982))."

The Ill. Human Rights Act (IHRA) and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity*. 775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240. *Sexual orientation* is defined as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1). *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103. 775 ILCS 5/1-102(A) makes *order of protection status* a protected category.

The IHRA's jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. 775 ILCS 5/5-102.2.

*Facilities.*⁴ Any student may file a discrimination grievance by using Board policy 2:260, *Uniform Grievance Procedure.*⁵

Sex Equity⁶

No student shall, based on sex, sexual orientation, or gender identity⁷ be denied equal access to programs, activities, services, or benefits or be limited in the exercise of any right, privilege, advantage, or denied equal access to educational and extracurricular programs and activities.

Any student may file a sex equity complaint by using Board policy 2:260, *Uniform Grievance Procedure.* A student may appeal the Board's resolution of the complaint to the Regional

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⁴ 23 Ill.Admin.Code §200.40(b) prohibits entering into agreements with entities that discriminate against students on the basis on sex. Section 200.80(a)(4) contains an exception for single sex youth organizations, e.g., Boy and Girl Scouts. Note that the U.S. Supreme Court refused to apply N.J.'s public accommodation law to the Boy Scouts because forcing the Scouts to accept a homosexual as a member would violate the Scouts' freedom of expressive association. Boy Scouts of America v. Dale, 530 U.S. 640 (2002). When deciding whether to allow non-school groups to use its facilities, a public school district may not engage in viewpoint discrimination. Good News Club v. Milford Central Sch., 533 U.S. 98 (2001).

⁵ Districts must have a grievance procedure. See Legal References following policy. Absent a specific statute or rule, there is no consensus on whether students have the right to appeal a board's decision to the Regional Superintendent and thereafter to the State Superintendent pursuant to 105 ILCS 5/2-3.8.

⁶ Every district must have a policy on sex equity. 23 Ill.Admin.Code §200.40(b). The IHRA, Public Accommodation section, prohibits schools from: (1) failing to enroll an individual, (2) denying a individual access to its facilities, goods, or services, or (3) failing take corrective action to stop severe or pervasive harassment of an individual (775 ILCS 5/5-102.2), on the basis of the individual's sex or sexual orientation, among other classifications (775 ILCS 5/5-101). Districts must periodically evaluate their policies and practices to identify and eliminate sex discrimination as well as evaluate course enrollment data to identify disproportionate enrollment based on sex. In-service training for all staff members is required. 23 Ill.Admin.Code §1.420.

With some exceptions, Title IX of the Education Amendments of 1972 (Title IX) guarantees that "[n]o person in the United States shall, on the basis of gender, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance..." 20 U.S.C. §§1681(a). Equal participation and equal opportunity in athletics is addressed in the U.S. Dept. of Education's implementing rules. 34 C.F.R. §106.41. Generally, when a school district offers a team for one gender but not for the other, a member of the excluded gender is allowed to try out for the team unless the sport is a *contact sport*. Contact sports are boxing, wrestling, rugby, ice hockey, football, basketball, and other sports involving bodily contact. The rules also list the factors that determine whether equal opportunities are available to both genders. These include: whether the selection of athletics accommodates the interests and abilities of both genders; equipment and supplies; scheduling; opportunity to receive coaching and academic tutoring; locker rooms, practice facilities, and fields; and publicity. Title IX prohibits any person from sexually harassing a student. See sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, for further discussion.

105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-29, requires public schools to provide reasonable accommodations to breastfeeding students. See sample administrative procedure 7:10-AP-2, *Accommodating Breastfeeding Students*, for specific *reasonable accommodations* under Illinois law.

105 ILCS 5/10-20.630 (final citation pending), added/amended by P.A. 102-3400-163, requires school districts to make ~~feminine~~menstrual hygiene products (defined as tampons and sanitary napkins for use in connection with the menstrual cycle) available, at no cost to students, in the bathrooms of every school buildings that is open for serving students use in grades 6~~4~~ through 12 during the regular school day. Note: While P.A. 102-340 expanded the availability of menstrual hygiene products to students in grades 4 and 5, it did not expand the definition of *school building*, which remains defined as serving students in grades 6 through 12. The statute does not delineate between types of bathrooms (student, staff, girls, boys, unisex, etc.). Consult with the board attorney about implementing this law.

⁷ For boards that want to incorporate ISBE's *Sample District Policy and Administrative Procedures* policy recommendations into this policy (see /n 2 above), insert:

1. In place of "or gender identity" as follows: "~~or gender identity~~, or gender expression".
2. The following sentence as the second sentence of this subhead: "Students shall be supported in a manner consistent with their gender identity. This will include, but not be limited to, use of restrooms, locker rooms, and other facilities that correspond with the student's gender identity."

Superintendent (pursuant to 105 ILCS 5/3-10) and, thereafter, to the State Superintendent of Education (pursuant to 105 ILCS 5/2-3.8).⁸

Administrative Implementation

The Superintendent shall appoint a Nondiscrimination Coordinator, who also serves as the District's Title IX Coordinator.⁹ The Superintendent and Building Principal shall use reasonable measures to inform staff members and students of this policy and related grievance procedures.¹⁰

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972; 34 C.F.R. Part 106.
29 U.S.C. §791 et seq., Rehabilitation Act of 1973.
42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.
Good News Club v. Milford Central Sch., 533 U.S. 98 (2001).
Ill. Constitution, Art. I, §18.
105 ILCS 5/3.25b, 5/3.25d(b), 5/10-20.12, 5/10-20.60, ~~5/10-20.63 (P.A.s 100-29 and 100-163, final citations pending)~~, 5/10-22.5, and 5/27-1.
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.
775 ILCS 35/5, Religious Freedom Restoration Act.
23 Ill.Admin.Code §1.240 and Part 200.

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 6:65 (Student Social and Emotional Development), 7:20 (Harassment of Students Prohibited), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:130 (Student Rights and Responsibilities), 7:160 (Student Appearance), 7:165 (Student School Uniforms), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:250 (Student Support Services), 7:330 (Student Use of Buildings - Equal Access), 7:340 (Student Records), 8:20 (Community Use of School Facilities)

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

⁸ Districts must have a grievance procedure and must tell students that they may appeal a board's resolution of a sex equity complaint to the Regional Superintendent and, thereafter, to the State Superintendent. 23 Ill.Admin.Code §200.40. Student complaints regarding breastfeeding accommodations must also be processed in accordance with these procedures. See sample policy 2:260, *Uniform Grievance Procedure*, at f/n 8.

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."

⁹ Required by regulations implementing Title IX. 34 C.F.R. Part 106.8(a). See f/n 19 in sample policy 2:260, *Uniform Grievance Procedure*. If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, amend this sentence to state: "The Superintendent shall appoint a Nondiscrimination Coordinator and a Title IX Coordinator."

¹⁰ Required by regulations implementing Title IX. 34 C.F.R. Part 106; 23 Ill.Admin.Code §200.40. 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. Faculty handbooks may contain working conditions and be subject to mandatory collective bargaining. The Illinois Principals Association (IPA) maintains a handbook service that coordinates with PRESS material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook.

Students

Harassment of Students Prohibited 1

No person, including a School District employee or agent, or student, shall harass, intimidate, or bully a student on the basis of actual or perceived: race; color; national origin; military status; unfavorable discharge status from military service; sex; sexual orientation; gender identity²; gender-related identity or expression; ancestry; age; religion; physical or mental disability; order of protection status; status of being homeless; actual or potential marital or parental status, including pregnancy; association with a person or group with one or more of the aforementioned actual or perceived characteristics; or any other distinguishing characteristic. The District will not tolerate harassing, intimidating conduct, or bullying whether verbal, physical, sexual, or visual, that affects the tangible benefits of education, that unreasonably interferes with a student's educational performance, or that creates an intimidating, hostile, or offensive educational environment. Examples of prohibited conduct include name-calling, using derogatory slurs, stalking, sexual violence, causing psychological harm, threatening or causing physical harm, threatened or actual destruction of

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¹ State or federal law requires this subject matter be covered by policy, controls this policy's content, and 105 ILCS 5/10-20.7169 (final citation pending), added by P.A. 101-531, requires that every two years, each district within an Illinois county served by an accredited Children's Advocacy Center review all its existing sexual abuse investigation policies and procedures to ensure consistency with 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531. Each district must also have a policy on bullying. 105 ILCS 5/27-23.7, amended by P.A. 100-137; see sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

This policy's list of protected classifications is identical to the list in 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The protected classifications are found in 105 ILCS 5/27-23.7(a); 775 ILCS 5/1-103, amended by P.A. 101-221; and 23 Ill.Admin.Code §1.240.

The list of protected classifications in sample policy 7:10, *Equal Educational Opportunities*, is different – it does not contain the classifications that are exclusively identified in the bullying statute. 105 ILCS 5/27-23.7.

The Ill. Human Rights Act (IHRA) and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity*. 775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240. *Sexual orientation* is defined as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." 775 ILCS 5/1-103(O-1). *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. 775 ILCS 5/5-103. 775 ILCS 5/1-102(A), added *order of protection status* to its list of protected categories. The IHRA's jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. 775 ILCS 5/5-102.2.

² See ¶n 2 in sample policy 7:10, *Equal Educational Opportunities*, for a discussion about Executive Order (EO) 2019-11 establishing the Affirming and Inclusive Schools Task Force (Task Force) that made policy and administrative procedure recommendations to the Ill. State Board of Education (ISBE) that are discussed in a its publication *Sample District Policy and Administrative Procedures* at www.isbe.net/supportallstudents.

For boards that want to incorporate ISBE's sample policy recommendation, insert the following in place of "gender identity.": gender; gender identity (whether or not traditionally associated with the student's sex assigned at birth);

If the board inserts this option, it must also insert the options in f/ns 2 and 7 of policy 7:10, *Equal Educational Opportunities*, BUT NOTE THE PROTECTED STATUSES LIST IN THIS POLICY IS DIFFERENT AND SHOULD NOT BE COPIED FROM HERE INTO 7:10, *EQUAL EDUCATIONAL OPPORTUNITIES*.

property, or wearing or possessing items depicting or implying hatred or prejudice of one of the characteristics stated above.³

Sexual Harassment Prohibited

The District shall provide an educational environment free of verbal, physical, or other conduct or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law.⁴ See policies 2:265, *Title IX Sexual Harassment Grievance Procedure*, and 2:260, *Uniform Grievance Procedure*.

Making a Report or Complaint

Students are encouraged to promptly report claims or incidences of bullying, intimidation, harassment, sexual harassment, or any other prohibited conduct to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any employee with whom the student is comfortable speaking.⁵ A student may choose to report to an employee of the student's same gender.

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³ This list of examples of prohibited conduct is optional. While hate speech is not specifically mentioned in this paragraph, any hate speech used to harass or intimidate is banned. Hate speech without accompanying misconduct may be prohibited in response to actual incidences when hate speech interfered with the educational environment. *West v. Derby Unified Sch. Dist.*, 206 F.3d 1358 (10th Cir. 2000).

⁴ Two laws apply to sexual harassment of students in Illinois. Title IX of the Education Amendments of 1972 (Title IX) and the IHRA prohibit discrimination on the basis of sex and sexual harassment in any educational program or activity receiving federal financial assistance. 20 U.S.C. §1681. Title IX defines sexual harassment as conduct on the basis of sex that meets one or more of the following: (1) a district employee conditions the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct; (2) unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it denies a person equal access to the District's education program or activity; or (3) sexual assault, dating violence, domestic violence, or stalking as defined in federal law. 34 C.F.R. §106.30. See sample policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, and sample exhibit 2:265-E, *Title IX Sexual Harassment Glossary of Terms*. Consult the board attorney to ensure the nondiscrimination coordinator and complaint managers are trained to appropriately respond to allegations of Title IX sexual harassment. See sample procedures 2:265-AP1, *Title IX Sexual Harassment Response*, and 2:265-AP2, *Formal Title IX Sexual Harassment Complaint Grievance Process*.

The IHRA prohibits any district employee or agent from sexually harassing a student, and defines sexual harassment as any unwelcome sexual advances or requests for sexual favors made to a student, or any conduct of a sexual nature toward a student, when: (1) such conduct has the purpose of substantially interfering with the student's educational performance or creating an intimidating, hostile or offensive educational environment; or (2) the district employee or agent either explicitly or implicitly makes the student's submission to or rejection of such conduct as a basis for making various enumerated education-related determinations. 775 ILCS 5/5A-201(E).

School districts are liable for damage awards for an employee's sexual harassment of a student in limited situations. Liability occurs only when a district official who, at a minimum, has authority to institute corrective action, has actual notice of and is deliberately indifferent to the employee's misconduct. *Gebser v. Lago Vista Independent Sch. Dist.*, 524 U.S. 274 (1998). Schools are liable in student-to-student sexual harassment cases when school agents are deliberately indifferent to sexual harassment, of which they have actual knowledge that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school. *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999). The Ill. Dept. of Human Rights investigates charges of sexual harassment in violation of the IHRA, and it is a civil rights violation when a district fails to take remedial or disciplinary action against an employee the district knows engaged in sexual harassment. 775 ILCS 5/5A-102.

⁵ Using "or any employee with whom the student is comfortable speaking" ensures compliance with Title IX regulations providing that "any employee" of an elementary or secondary school who has notice of sexual harassment or allegations of sexual harassment is deemed to have *actual knowledge* which triggers a district's duty to respond. 34 C.F.R. §106.30. By including "any employee" in this list, 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.

Reports under this policy will be considered a report under Board policy 2:260, *Uniform Grievance Procedure*, and/or Board policy 2:265, *Title IX Sexual Harassment Grievance Procedure*. The Nondiscrimination Coordinator and/or Complaint Manager shall process and review the report according to the appropriate grievance procedure.⁶ The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.⁷ The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.⁸

Nondiscrimination Coordinator:

Name

Address

Email

Telephone

Complaint Managers:

Name

Name

Address

Address

Email

Email

Telephone

Telephone

The Superintendent shall use reasonable measures to inform staff members and students of this policy by including:

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

⁶ If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state "The Nondiscrimination Coordinator, Title IX Coordinator, and/or Complaint Manager shall process and review the report according to the appropriate grievance procedure."

⁷ While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored.

Each district must communicate its bullying policy to students and their parents/guardians. 105 ILCS 5/27-23.7; amended by P.A. 100-137; see sample policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

⁸ Title IX regulations require districts to identify the name, office address, email address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. The Nondiscrimination and Title IX Coordinator(s) need not be the same person. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, delete "~~The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.~~" supplement the previous sentence to state "The Superintendent shall insert into this policy the names, office addresses, email addresses, and telephone numbers of the District's current Nondiscrimination Coordinator, Title IX Coordinator, and Complaint Managers." Then, list the Title IX and Nondiscrimination Coordinators' names and contact information separately in this policy.

1. For students, age-appropriate information about the contents of this policy in the District's student handbook(s), on the District's website, and, if applicable, in any other areas where policies, rules, and standards of conduct are otherwise posted in each school.⁹
2. For staff members, this policy in the appropriate employee handbook(s), if applicable, and/or in any other areas where policies, rules, and standards of conduct are otherwise made available to staff.

Investigation Process

Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager.¹⁰ Any employee who fails to promptly comply may be disciplined, up to and including discharge.

Reports and complaints of harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain an educational environment that is productive, respectful, and free of unlawful discrimination, including harassment.

For any report or complaint alleging sexual harassment that, if true, would implicate Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 et seq.), the Nondiscrimination Coordinator or designee¹¹ shall consider whether action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, should be initiated.

For any other alleged student harassment that does not require action under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, the Nondiscrimination Coordinator or a Complaint Manager or designee shall consider whether an investigation under policies 2:260, *Uniform Grievance Procedure*, and/or 7:190, *Student Behavior*, should be initiated, regardless of whether a written report or complaint is filed.

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

⁹ In addition to notifying students of policies 2:260, *Uniform Grievance Procedure*, and 2:265, *Title IX Sexual Harassment Grievance Procedure*, a district must notify them of the name, office address, email address, and telephone number of district's Title IX Coordinator. 34 C.F.R. §106.8(a). 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-418, requires districts to maintain and implement an *age-appropriate* policy on sexual harassment that is included in the school district's student handbook, as well as on a district's website and, if applicable, other areas where such information is posted in each school. The law does not expressly state that the age-appropriate policy is for students; however, that is the most logical interpretation. In practice, most districts maintain a student handbook for each building. Because the law only requires one policy, this policy manages the age-appropriate requirement by directing age-appropriate explanations of the policy be included in the building-level student handbook(s). Student handbooks can be developed by the building principals, but should be reviewed and approved by the superintendent and school board.

The Illinois Principals Association maintains a handbook service that coordinates with PRESS material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook.

¹⁰ If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, supplement this sentence to state "Any District employee who receives a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator, Title IX Coordinator, or a Complaint Manager."

¹¹ "Nondiscrimination Coordinator or designee" is used where Title IX is potentially implicated. In contrast, if Title IX is likely not implicated then "Nondiscrimination Coordinator or a Complaint Manager or designee" is used (see next paragraph in policy text). If the district's Nondiscrimination Coordinator does not also serve as the Title IX Coordinator, delete "~~Nondiscrimination~~" and insert "Title IX" in its place.

Reports That Involve Alleged Incidents of Sexual Abuse of a Child by School Personnel ¹²

An *alleged incident of sexual abuse* is an incident of sexual abuse of a child, as defined in 720 ILCS 5/11-9.1A(b), that is alleged to have been perpetrated by school personnel, including a school vendor or volunteer, that occurred: on school grounds during a school activity; or outside of school grounds or not during a school activity.

Any complaint alleging an incident of sexual abuse shall be processed and reviewed according to policy 5:90, *Abused and Neglected Child Reporting*. In addition to reporting the suspected abuse, the complaint shall also be processed under policy 2:265, *Title IX Sexual Harassment Grievance Procedure*, or policy 2:260, *Uniform Grievance Procedure*.

Enforcement

Any District employee who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action up to and including discharge. Any third party who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, e.g., vendor, parent, invitee, etc. Any District student who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action, including but not limited to, suspension and expulsion consistent with the behavior policy. Any person making a knowingly false accusation regarding prohibited conduct will likewise be subject to disciplinary action.

Retaliation Prohibited

Retaliation against any person for bringing complaints or providing information about harassment is prohibited (see policies 2:260, *Uniform Grievance Procedure*, and 2:265, *Title IX Sexual Harassment Grievance Procedure*).

Students should report allegations of retaliation to the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.

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¹² Required for districts located within a county served by an accredited Children's Advocacy Center (CAC). Delete this subhead if your school district is within a county not served by an accredited CAC. 105 ILCS 5/22-85 (final citation pending), added by P.A. 101-531 (governing the investigation of an *alleged incident of sexual abuse* of any child within any Illinois counties served by a CAC). For a map of accredited CACs, and to identify a CAC that may serve your district, see www.childrensadvocacycentersofillinois.org/about/map. For further discussion see fn's 14-16 in policy 5:90, *Abused and Neglected Child Reporting*.

LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972; 34 C.F.R. Part 106.
105 ILCS 5/10-20.12, 5/10-22.5, 5/10-23.13, 5/27-1, and 5/27-23.7.
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.
23 Ill.Admin.Code §1.240 and Part 200.
Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999).
Franklin v. Gwinnett Co. Public Schs., 503 U.S. 60 (1992).
Gebser v. Lago Vista Independent Sch. Dist., 524 U.S. 274 (1998).
West v. Derby Unified Sch. Dist. No. 260, 206 F.3d 1358 (10th Cir. 2000).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 4:165 (Awareness and Prevention of Child Sexual Abuse and Grooming Behaviors), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:240 (Conduct Code for Participants in Extracurricular Activities)

DRAFT

Students

Student Assignment and Intra-District Transfer 1

Attendance Areas

The School District is divided into school attendance areas. The Superintendent will:

1. Review the boundary lines annually and recommend to the School Board any changes or revisions for existing units; or
2. Create new units using a lens that considers preventing segregation and the elimination of separating students in the District's schools because of color, race, or nationality to the School Board. ²

The Superintendent or designee shall maintain a map of the District showing current school attendance areas. All records pertaining to the creation, alteration, or revision of attendance units are open to the public. ³ Students living in a given school attendance area will be assigned to that school. ⁴ Homeless children shall be assigned according to Board policy 6:140, *Education of Homeless Children*.

Transfers Within the District ⁵

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. ⁶ The provisions in this section have no applicability to transfers pursuant to the Unsafe School Choice Option covered in Board policy 4:170, *Safety*.

Class Assignments

The Superintendent or designee shall assign students to classes.

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

¹ 105 ILCS 5/10-21.3a State law requires that intra-district transfers be covered by policy and controls this policy's content. (105 ILCS 5/10-21.3a).

² 105 ILCS 5/10-21.3 requires 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). Note that the law uses the term units, but that these are often referred to as attendance areas; this policy uses both terms.

³ *Id.*

⁴ 105 ILCS 5/10-22.5 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 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).

⁵ The details for intra-district transfers are determined locally; State law does not address when, or even if, intra-district transfers should be granted. For districts that maintain one attendance center, delete this subhead.

⁶ 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 ..."

LEGAL REF.: 105 ILCS 5/10-21.3, 5/10-21.3a, and 5/10-22.5.

CROSS REF.: 4:170 (Safety), 6:30 (Organization of Instruction), 6:140 (Education of Homeless Children)

DRAFT

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 years old on or before September 1 of that school term.² A child entering first grade must be six years of age on or before September 1 of that school term.³ Based upon an assessment of a child’s readiness to attend school, the District may permit him or her to attend school prior to these dates.⁴ A child will also be allowed to attend first grade based upon an assessment of his or her readiness 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 years old on or before December 31.⁵ A child with exceptional needs who qualifies for special education services is eligible for admission at three years of age.⁶ Early entrance to kindergarten or first grade may also be available through Board policy 6:135, *Accelerated Placement Program*.^{7 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 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/Documents/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.

⁴ 105 ILCS 5/10-20.12.

⁵ Id. Delete the first four sentences in this paragraph if the district operates a year-round school and use the following alternative:

To be eligible for admission, a child must be at least five years old within 30 days after the commencement of that school term. Based upon an assessment of the child’s readiness to attend school, the District may permit him or her to attend school prior to this date. A child may also attend first grade based upon an assessment of his or her readiness 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 within four months after the commencement of the term.

⁶ 105 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, amended by P.A. 102-199, eff. 7-1-22.

⁷ 105 ILCS 5/14A-17, added by P.A. 100-421, eff. 7-1-18 (the Accelerated Placement Act (APA)). For high school districts, delete this sentence and the cross reference to 6:135, *Accelerated Placement Program*. See 6:135, *Accelerated Placement Program*, and 6:135-AP, *Accelerated Placement Program Procedures*, for further detail.

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 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.⁹ 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 permanent¹⁰ record, and return the certified copy 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 ten days, the case will be referred to the local law enforcement authority for investigation. If compliance is not obtained within that 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.¹¹
2. Proof of residence, as required by Board policy 7:60, *Residence*.

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

Attorneys disagree whether the APA conflicts with 105 ILCS 5/10-20.12 (*School year – School age*). See f/n 4 in sample policy 6:135, *Accelerated Placement Program* for a discussion about reconciling the APA and 105 ILCS 5/10-20.12. **Consult the board attorney for guidance.**

⁸ Districts should 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.

⁹ 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* (457 U.S. 202 (1982)), 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 11 below).

¹⁰ 23 Ill.Admin.Code §375.10 states that the *student permanent record* shall include basic identifying information, including the student's name, birth date and place, and gender, and evidence required under 325 ILCS 50/5(b)(1).

¹¹ 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*. See also f/n 18 below.

According to the Ill. 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. 325 ILCS 50/5(b). 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. *Id.* 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. 325 ILCS 50/3, 50/5.

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*.¹²

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.¹³ Students who are children of active duty military personnel transferring will be allowed to enter: (a) 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.¹⁴

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.¹⁵ 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 Ill. Dept. of Children and Family Services when enrolling in or changing schools.¹⁶

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

¹² Each school must maintain records for each student that reflect compliance with the examinations and immunizations required by 105 ILCS 5/27-8.1 and 23 Ill. Admin. Code § 1.530(a). A Tuberculosis skin test is required if the student lives in an area designated by the Ill. Dept. of Public Health as having a high incidence of Tuberculosis.

¹³ 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 (EOMCA, 105 ILCS 70/); this exact language is not contained in the recoded EOMCA.

¹⁴ Optional. The EOMCA further details enrollment and entrance requirements for children of active military personnel. 105 ILCS 70/33. 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*.

¹⁵ Required by Education for Homeless Children Act (105 ILCS 45/) and the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11431 *et seq.*). See § 11432(g)(3)(C)(i).

¹⁶ 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 Schools ¹⁷

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] ¹⁸

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

¹⁷ 105 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 and 70/32). 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 and 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.

¹⁸ 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. Dept. of State (DOS), 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 nonresident status. Call 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*. 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.¹⁹

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.²⁰ 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-enrollment²¹ [*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.

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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 Dept. of Homeland Security (DHS) and the DOS 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 DHS 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 DHS. 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.

¹⁹ State law allows, but does not require, boards to waive nonresident tuition for these students. 105 ILCS 5/10-22.5a.

²⁰ 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.

²¹ 105 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 sample policy 7:70, *Attendance and Truancy*.

LEGAL REF.: 8 U.S.C. §1101, Illegal Immigrant and Immigrant Responsibility Act of 1996.
20 U.S.C. §1232, Family Educational Rights and Privacy Act.
20 U.S.C. §1400 et seq., Individuals With Disabilities Education Improvement Act.
29 U.S.C. §794, Rehabilitation Act of 1973, Section 504.
42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.
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,
105 ILCS 10/8.1, Ill. School Student Records Act.
105 ILCS 45/, Education for Homeless Children Act.
105 ILCS 70/, Educational Opportunity for Military Children Act.
325 ILCS 50/, Missing Children Records Act.
325 ILCS 55/, Missing Children Registration Law.
410 ILCS 315/2e, Communicable Disease Prevention Act.
20 Ill.Admin.Code Part 1290, Missing Person Birth Records and School
Registration.
23 Ill.Admin.Code Part 226, Special Education.
23 Ill.Admin.Code Part 375, Student Records.

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), 6:135 (Accelerated Placement 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

Residence 1

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 affidavit 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

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. For a resource, see the Ill. State Board of Education's non-regulatory guidance, *Residency & Enrollment, Immigrant Pupils, Homeless Pupils and School Fees & Waivers* at www.isbe.net/Pages/Student-Registration-and-Enrollment-Guidance.aspx.

² In certain cases, no tuition may be charged for nonresident children placed: (1) by the Ill. Dept. of Children and Family Services (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/). When special education services are provided, *resident district* is determined by 105 ILCS 5/14-1.11 and 14-1.11a, amended by P.A. 102-514.

³ In the case of divorced or divorcing parents, the Illinois Marriage and Dissolution of Marriage Act (IMDMA), 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 The IMDMA 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 Sch.*, 200, 235 Ill.App.3d 652601 N.E.2d 1264 (Ill.App.5th Dist. 1992). See also *Joel R. v. Board of Education of Manheim Sch.*, 83, 686 N.E.2d 650292 Ill.App.3d 607 (Ill.App.1st Dist. 1997).

⁵ 105 ILCS 5/10-20.12a.

⁶ 105 ILCS 5/10-20.12b(a-5).

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~~ six months after the time of initial enrollment, the child is allowed to enroll, subject to the requirements of State law, and must not be charged tuition. ⁷

Requests for Nonresident Student Admission ⁸

Nonresident students may attend District schools upon the approval of a request submitted by the student's parent(s)/guardian(s) for nonresident 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 Nonresident Students Pursuant to an Agreement or Order ¹¹

Nonresident 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 nonresident 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 nonresident student.

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(a-5), amended by P.A. 102-126. Military personnel must provide proof that the child will be living within the district within ~~60 six months~~ 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.- 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 nonresident 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 nonresident students.

¹¹ The agreement described in #1 is optional (105 ILCS 5/10-22.5a(a)) and districts are not required to enter into such agreements nor to alter existing transportation services due to the attendance of such nonresident students. The agreement described in #2 is optional (105 ILCS 5/10-22.5a(a)); districts should be sure it is consistent with sample 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 nonresident students; entering into such an agreement is optional.

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, *Education of Homeless Children*, and its implementing administrative procedure, govern the enrollment of homeless children.

Challenging a Student's Residence Status ¹³

If the Superintendent or designee determines that a student attending school on a tuition-free basis is a nonresident 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 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., McKinney-Vento Homeless Assistance Act.~~
105 ILCS 5/10-20.12a, 5/10-20.12b, ~~and 5/10-22.5, and 5/10-22.5a.~~
105 ILCS 45/~~Education for Homeless Children Act and 70/.~~
~~105 ILCS 70/ Educational Opportunity for Military Children Act.~~
23 Ill.Admin.Code §1.240.
~~Israel S. by Owens v. Board of Educ. of Oak Park and River Forest High Sch., 601 N.E.2d 1264235 Ill.App.3d 652 (Ill.App.1, 5th Dist. 1992).~~
~~Joel R. v. Board of Education of Manheim School District 83, 686 N.E.2d 650292 Ill.App.3d 607 (Ill.App.1, 1st Dist. 1997).~~
~~Kraut v. Rachford, 366 N.E.2d 49751 Ill.App.3d 206 (Ill.App.1, 1st Dist. 1977).~~
- CROSS REF.: 6:140 (Education of Homeless Children), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:70 (Attendance and Truancy)

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

¹² Required by 105 ILCS 45/4-1 ~~et seq.~~ and the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq. See §11432 (g)(3)(C)(i).

¹³ Id. See administrative procedure 7:60-AP1, *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.~~

Students

Agency and Police Interviews 1

The Superintendent shall develop procedures to manage requests by agency officials or police officers to interview students at school. Procedures will:

1. Recognize individual student rights and privacy,
2. Recognize the potential impact an interview may have on an individual student,
3. Minimize potential disruption,
4. Foster a cooperative relationship with public agencies and law enforcement, and
5. Comply with State law including, but not limited to, ensuring that before a law enforcement officer, school resource officer, or other school security person detains and questions on school grounds a student under 18 years of age who is suspected of committing a criminal act, the Superintendent or designee will: ²
 - a. Notify or attempt to notify the student’s parent/guardian and document the time and manner in writing;

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¹ State or federal law controls this policy’s content. The listed standards for procedures, other than compliance with State law, are at the local school board’s discretion and may be omitted altogether. The Illinois TRUST Act, 5 ILCS 805/ added by P. A. 100-463, prohibits law enforcement agencies and officials from enforcing federal civil immigration laws. Under Section 15(b), law enforcement cannot stop, arrest, search, detain, or continue to detain a person solely based on an individual’s citizenship or immigration status.

An excellent resource is the *Guidelines for Interviews of Students*, published by the Ill. Council of School Attorneys (ICSA) at: www.iasb.com/law/ICSAGuidelinesforInterviewsofStudents.pdf. The publication, *Policing in Schools, Developing a Governance Document for School Resource Officers in K-12 Schools*, was developed by the American Civil Liberties Union, and is available at: www.aclu.org/racial-justice/policing-schools-developing-governance-document-school-resource-officers-k-12-schools. It, like the ICSA *Guidelines*, highlights the need for collaboration between law enforcement and school officials. It recommends that school officials provide law enforcement agencies with information about the school’s mission to ensure a safe school environment while respecting student rights. To accomplish this, the white paper recommends that school officials create a *model governance document*, e.g., 7:150-AP, *Agency and Police Interviews*, and provide it to the law enforcement authorities with whom they work.

Another helpful resource is *School Resource Officers, School Law Enforcement Units, and the Family Educational Rights and Privacy Act (FERPA)*, published by PTAC (2019), at: www.studentprivacy.ed.gov/resources/school-resource-officers-school-law-enforcement-units-and-ferpa. 105 ILCS 5/10-20.64, added by P.A. 100-204, prohibits *student booking stations* from being established or maintained on school grounds. A *student booking station* is “a building, office, room, or any indefinitely established space or site, mobile or fixed, which operates concurrently as: (1) predominantly or regularly a place of operation for a municipal police department, county sheriff department, or other law enforcement agency, or under the primary control thereof, and (2) a site at which students are detained in connection with criminal charges or allegations against those students, taken into custody, or engaged with law enforcement personnel in any process that creates a law enforcement record of that contact with law enforcement personnel or processes.” 105 ILCS 5/10-20.64(d).

² 105 ILCS 5/22-885 (final citation pending), added by P.A. 101-478 and amended by P.A.s 102-197 and 102-558, eff. 1-1-20. The statute does not specifically assign these duties to a school official, but instead states that “a law enforcement officer, school resource officer, or other school security personnel” must ensure these conditions are met before detaining and questioning a student on school grounds. For ease of implementation, this policy assigns these duties to a school official as they routinely contact parents/guardians and can arrange for the presence of school personnel during an interview. See the ICSA *Guidelines* for further discussion of school officials’ responsibilities when law enforcement authorities interview students at school.

- b. Make reasonable efforts to ensure the student's parent/guardian is present during questioning or, if they are not present, ensure that school employees (including, but not limited to, a school social worker, psychologist, nurse, guidance counselor, or any other mental health professional) are present during the questioning; and
- c. If practicable, make reasonable efforts to ensure a trained law enforcement officer to promote safe interactions and communications with the student is present during questioning.³

LEGAL REF.: 105 ILCS 5/10-20.64, 5/22-88.5 (final citation pending)
55 ILCS 80/, Children's Advocacy Center Act.
325 ILCS 5/, Abused and Neglected Child Reporting Act.
720 ILCS 5/31-1 et seq., Interference with Public Officers Act.
725 ILCS 120/, Rights of Crime Victims and Witnesses Act.

CROSS REF.: 5:90 (Abused and Neglected Child Reporting), 7:130 (Student Rights and Responsibilities), 7:140 (Search and Seizure), 7:190 (Student Behavior)

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³ 105 ILCS 5/22-88.5(b)(4) (final citation pending), added by P.A. 101-478, eff. 1-1-20. A trained law enforcement officer is someone who: (1) received training in youth investigations approved or is certified by his/her law enforcement agency as a school resource officer per 50 ILCS 705/10.22, or (2) is a juvenile police officer per 705 ILCS 405/1-3(17).

Students

School Uniforms 1

Students are encouraged to wear school uniforms to school on all school attendance days, in order to maintain and promote orderly school functions, student safety, and a positive learning environment.² The Building Principal is authorized to designate days on which this uniform policy is relaxed.³

The Superintendent or designee shall designate a school-wide uniform after receiving input from school staff members, parents, and interested community members.⁴ Students may:⁵

1. Display religious messages on items of clothing to the same extent they are permitted to display other messages;
2. Wear attire that is part of the student’s religious practice;
3. Wear or display expressive items, such as a button, as long as such items do not contribute to disruption by substantially interfering with discipline or with the rights of others;⁶ and

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¹ State or federal law controls this policy’s content. This policy concerns an area in which the law is unsettled. Boards may adopt a school uniform policy, provided it is “necessary to maintain the orderly process of a school function or prevent endangerment of student health or safety.” 105 ILCS 5/10-22.25b, amended by P.A. 102-360, eff. 1-1-22 (*Jett Hawkins Law*).

² Alternatively, the board may designate certain individual attendance centers.

A voluntary school uniform policy permits students to freely choose whether and under what circumstances they will wear the uniform. A voluntary policy allows the district to gauge parental support—something that is vital to the policy’s success. In addition, a voluntary policy does not implicate the First Amendment.

Boards may adopt a mandatory uniform policy, with or without an *opt-out* provision. An opt-out provision allows a student to be excused from the policy because of an objection from a parent/guardian based on cultural, religious, or other reasons. While the constitutionality of a mandatory uniform policy is disputed, the inclusion of an opt-out provision reduces vulnerability to constitutional attack. For districts desiring a mandatory uniform policy, substitute this provision for the first sentence (eliminate the 2nd sentence if no opt-out provision is wanted):

Students are required to wear school uniforms to school on all attendance days, unless otherwise indicated by the Building Principal, in order to maintain and promote orderly school functions, student safety, and a positive learning environment. This policy will be waived for any student whose parent/guardian provides the Board with a signed statement detailing the grounds for their objection.

³ Optional; eliminate this sentence if the board wants to enforce the policy every day.

⁴ Boards may allow each school to designate its own uniform or designate a district-wide uniform, as the following alternative provides:

The Superintendent or designee shall designate a district-wide uniform after receiving input from school staff members, parents, and interested community members.

⁵ A uniform policy must accommodate students whose religious beliefs are substantially burdened by a uniform requirement. Religious messages may not be singled out for suppression; they must be subject to the same rules as generally apply to other messages. For more information, see U.S. Dept. of Education’s publication:

www.ed.gov/policy/gen/guid/religionandschools/prayer_guidance.html.

4. Wear the uniform of a nationally recognized youth organization such as Boy Scouts or Girl Scouts on regular meeting days.

No student shall be denied attendance at school, penalized, or otherwise subject to compliance measures for failing to wear a uniform because of:

1. Personal choice;⁷
2. Insufficient time in which to comply with this policy;⁸
3. Financial hardship;⁹
4. Hairstyles, including hairstyles historically associated with race, ethnicity, or hair texture, including, but not limited to, protective hairstyles such as braids, locks, and twists;¹⁰ or
- 4.5. Religious objection by the student's parent/guardian to the student's compliance with this policy or the applicable uniform, if they have provided the Superintendent with a signed statement detailing their objection.¹¹

Any student eligible for reduced or free lunches, or for a waiver of student fees, is eligible for financial assistance toward the purchase of school uniforms. The Superintendent or designee shall develop a process for informing parents/guardians of the availability of financial assistance and a method to process financial requests.¹²

No student shall be suspended or expelled from school, or receive a lowered academic grade, because of failing to comply with this policy.¹³

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⁶ In 1969, the U.S. Supreme Court recognized that students enjoy First Amendment free speech rights in school but that schools have the authority to limit student speech that might reasonably be predicted to cause a material and substantial disruption or invasion of the rights of others. Tinker v. Des Moines Independent Sch. Dist., 393 U.S. 503 (1969). The manner in which this ruling applies to uniform policies is still unsettled. See DePinto v. Bayonne Bd. of Ed., 514 F.Supp.2d 633 (D. N.J. 2007) (a school district was enjoined from disciplining elementary students who wore a button protesting the district's mandatory uniform policy). However, many decisions have upheld a compulsory uniform policy. See Blau v. Ft. Thomas Public Sch. Dist., 401 F.3d 381 (6th Cir. 2005); Canady v. Bossier Parish Sch. Board, 240 F.3d 437 (5th Cir. 2001); Littlefield v. Fomey Sch. Dist., 268 F.3d 275 (5th Cir. 2001); Jacobs v. Clark County Sch. Dist., 373 F.Supp.2d 1162 (D. Nev., 2005); Phoenix Elementary Sch. Dist. v. Green, 943 P.2d 836 (Az.Ct. App. 1997); Vines v. Zion Sch. Dist., 2002 WL 58815 (N.D.Ill. 2002); Alwood v. Clark, 2005 WL 2001317 (S.D.Ill. 2005); Bear v. Fleming, 714 F.Supp.2d 972 (W.D. S.D. 2010) (requiring students to wear a cap and gown while receiving their diplomas is reasonably related to the school board's legitimate interest in maintaining order). **Before adopting a uniform policy, a board should discuss this issue with its attorney.**

⁷ Omit *personal choice* if the district has a mandatory uniform policy.

⁸ 105 ILCS 5/10-22.25b.

⁹ *Id.*

¹⁰ *Id.*, amended by P.A. 102-360, eff. 1-1-22 (*Jeff Hawkins Law*). See fn 1 in policy 7:160, *Student Appearance*.

If the board expanded upon the law's requirement of race, ethnicity, or hair texture, in policy 7:160, *Student Appearance*, amend number 4 as follows to align with it:

"Hairstyles, including hairstyles historically associated with race, ethnicity, or hair texture, or any other protected classes under Board policy 7:10, *Equal Educational Opportunities*, including but not limited to, protective hairstyles such as braids, locks, and twists."

¹¹ *Id.* Remove this provision if a mandatory uniform policy is adopted with a provision allowing the parents/guardians to obtain an opt-out (see fn 2).

¹² *Id.* State law requires the board to establish "criteria and procedures under which the board will accommodate the needs of or otherwise provide appropriate resources to assist a student from an indigent family."

¹³ For those boards choosing a mandatory uniform policy with no opt-out provision, replace this sentence with the following:

The Superintendent or designee shall develop incentives and positive reinforcement measures to encourage full compliance. ¹⁴

LEGAL REF: 105 ILCS 5/2-3.25, and 5/10-22.25b.

CROSS REF: 4:140 (Waiver of Student Fees), 7:160 (Student Appearance), 7:190 (Student Behavior)

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Disciplinary action may be taken for failure to comply with this policy. Before initiating disciplinary action, a conference with the parent(s)/guardian(s) shall be requested to solicit cooperation and support.

¹⁴ The following alternative takes the board into operational matters but it ensures that the nuts and bolts issues will be covered by administration:

The Superintendent or designee shall develop incentives and positive reinforcement measures to encourage full compliance and shall communicate information to students and parents/guardians concerning:

1. The uniform's description and its availability;
2. The requirements for jackets and outer garments;
3. Optional articles of attire, if any;
4. Compliance measures;
5. Methods to facilitate recycling of uniforms within the school community; and
6. Notice of uniform sales and lists of competitive prices from vendors of uniform articles.

Students

Student Behavior 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

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:

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¹ All districts must have a policy on student discipline, including school searches and bullying prevention (105 ILCS 5/10-20.14); re-engagement of students returning from an exclusionary discipline or an alternative school (105 ILCS 5/10-22.6(b-25)); 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. 105 ILCS 5/10-20.14(a). The school board must require that each school inform its pupils of the discipline policy's contents. *Id.*

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. *Id.* For more information about the parent-teacher advisory committee, see 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). 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 Sch. Dist. v. Fraser*, 478 U.S. 675 (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/Pages/Expulsions-Suspensions-and-Truants-by-District.aspx.

See *Fn 1* in policy 4:170, *Safety*, for information on the U.S. School Safety Clearinghouse website at: www.SchoolSafety.gov.

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 thorough factual inquiry to determine the degree of nexus and impact on the school. Consult the board attorney in these situations.

A U.S. Supreme Court decision and many lower court decisions address disciplining a student for off-campus misconduct. See *Mahanoy Area Sch. Dist. v. B.L.*, 141 S.Ct. 2038 (2021), discussed in *Fn 3* of sample policy 7:240, *Conduct Code for Participants in Extracurricular Activities*; and for example, see: *J.S. v. Blue Mountain Sch. Dist.*, 650 F.3d 915 (3rd Cir. 2011), combined with *Layshock v. Hermitage Sch. Dist.*, 650 F.3d 205 (3d Cir. 2011), cert. denied 565 U.S. 11546 (2012) (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).

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

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In contrast, the 7th Circuit Court of Appeals upheld a student's expulsion for an article in an underground newspaper titled "So You Want to be a Hacker." The article's instructions for hacking into the school's computers clearly interfered with the school's operations. Boucher v. Sch. Bd. of the Sch. Dist. of Greenfield, 134 F.3d 821 (7th Cir. 1998). See also Wisniewski v. Bd. of Educ. of the Weedsport Central Sch. Dist., 494 F.3d 34 (2nd Cir. 2007), cert. denied 552 U.S. 1296 (2008), (holding a student's transmission of an icon of a pistol with blood splattering and the words "Kill Mr. VanDer Molen" crossed the boundary of protected speech and posed a reasonably foreseeable risk that the icon would come to the attention of school authorities and materially and substantially disrupt the school).

Note that historically, schools have had more leeway in disciplining law is different regarding participants in athletics and extracurricular activities; however, the Mahanoy decision raises unresolved questions about the degree of leeway now afforded to school officials. See policy 7:240, *Conduct Code for Participants in Extracurricular Activities* at ¶n 3 for further discussion.

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.

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 Schs. 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 *et seq.* Districts that fail to comply risk a civil penalty of up to \$1,000 per violation per day. 20 U.S.C. §6083(f)(1). See 8:30, *Visitors to and Conduct on School Property*, for more information.

The U.S. Food and Drug Administration now regulates electronic cigarettes. 21 C.F.R. Parts 1100, 1140, and 1143, amended by 81 Fed.Reg. 28973. An electronic or e-cigarette resembles a regular cigarette and contains a battery-operated heating element that turns a liquid into a mist for inhaling. The liquid may contain nicotine. E-cigarettes are sometimes referred to as e-cigs, vapes, e-hookahs, vape pens, and electronic nicotine delivery systems (ENDS), and they are generally involved in *vaping*. Vaping is the act of inhaling and exhaling the aerosol, often referred to as vapor that is produced by an e-cigarette or similar device. An e-cigarette resembles a cigarette and contains a battery-operated heating element that turns a liquid into a mist for inhaling. Some e-cigarettes do not look like tobacco products and are shaped like other objects, such as USB flash drives, and are more easily concealed.

Information and resources are available at:

www.isbe.net/Pages/School-Health-Issues.aspx

www.fda.gov/tobaccoproducts/default.htm

www.cdc.gov/tobacco/basic_information/e-cigarettes/index.htm

www.dph.illinois.gov/topics-services/prevention-wellness/tobacco/e-cigarettes-and-vapes

www.drugabuse.gov/drugs-abuse/tobacconicotine-vaping

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 marijuana, hashish, and medical cannabis unless the student is authorized to be administered a medical cannabis infused product under *Ashley's Law*).⁸
 - b. Any anabolic steroid unless it is being administered in accordance with a physician's or licensed practitioner's prescription.⁹
 - 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 unless the student is authorized to be administered a medical cannabis infused product under *Ashley's Law*.¹¹

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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(f); *cannabis* is defined in 720 ILCS 550/3(a) and in 410 ILCS 705/1-10, added by P.A. 101-27. Either spelling, *marihuana* or *marijuana*, is correct; however, *marijuana* is more common. See f/n 11 for a discussion of medical cannabis and *Ashley's Law*.

⁹ *Anabolic steroid* is defined in 720 ILCS 570/102(c-1).

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 Program. 410 ILCS 130/, amended by P.A.s ~~100-660~~ and 101-363, scheduled to be repealed on 7-1-20. There are many situations in which no one, even a *registered qualifying patient*, may possess or use cannabis. This includes in a school bus or on the grounds of any preschool, or primary or secondary school unless the student meets the requirements of 105 ILCS 5/22-33, a/k/a *Ashley's Law*. 410 ILCS 130/30(a)(2) and (3), amended by P.A.s ~~100-660~~ and 101-363, scheduled to be repealed on 7-1-20. *Ashley's Law* provides that school districts "shall authorize a parent or guardian or any other individual registered with the Department of Public Health as a designated caregiver of a student who is a registered qualifying patient to administer a medical cannabis infused product to the student on the premises of the child's school or on the child's school bus if both the student (as a registered qualifying patient) and the parent or guardian or other individual (as a registered designated caregiver) have been issued registry identification cards under the Compassionate Use of Medical Cannabis Program Act." 105 ILCS 5/22-33(b), ~~added by P.A. 100-660 and~~ amended by P.A. 101-363. Once the product is administered, the designated caregiver must remove the product from the school premises/bus. *Id.* 105 ILCS 5/22-33(b-5), added by 101-370, allows a properly trained school nurse or administrator to administer medical cannabis infused products to a student while at school, a school-sponsored activity, or before/after normal school activities, including while the student is in before-school or after-school care on school-operated property or while being transported on a school bus. The product may not be administered in a manner that would (in the school or district's opinion) create a disruption or expose other students to the product, and schools are not required to authorize use of the product if the school or district would lose federal funding as a result. 105 ILCS 5/22-33(c), ~~added by P.A. 100-660~~. For more discussion, see f/n 25 in 7:270, *Administering Medicines to Students*. 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 of 1990, 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.

- e. Any inhalant, regardless of whether it contains an illegal drug or controlled substance: (a) that a student believes is, or represents to be capable of, causing intoxication, hallucination, excitement, or dulling of the brain or nervous system; or (b) about which the student engaged in behavior that would lead a reasonable person to believe that the student intended the inhalant to cause intoxication, hallucination, excitement, or dulling of the brain or nervous system. The prohibition in this section does not apply to a student's use of asthma or other legally prescribed inhalant medications.
- f. Any substance inhaled, injected, smoked, consumed, or otherwise ingested or absorbed with the intention of causing a physiological or psychological change in the body, including without limitation, pure caffeine in tablet or powdered form. 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
- 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,

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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.

¹³ *Counterfeit* and *look-alike substances* are defined in 720 ILCS 570/102(g) and (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 III. appellate decision in 2000 found a policy prohibiting possession of *look-alikes* had vagueness problems.

¹⁴ *Drug paraphernalia* is defined in 720 ILCS 600/2(d). 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(d). 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.

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 or silenced and out-of-sight¹⁶ 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. ¹⁷

6. Using or possessing a laser pointer unless under a staff member's direct supervision and in the context of instruction.
7. Disobeying rules of student conduct or directives from staff members or school officials. Examples of disobeying staff directives include refusing a District staff member's request to stop, present school identification, or submit to a search.
8. Engaging in academic dishonesty, including cheating, intentionally plagiarizing, wrongfully giving or receiving help during an academic examination, altering report cards, and wrongfully obtaining test copies or scores.
9. Engaging in hazing or any kind of bullying or aggressive behavior that does physical or psychological harm to a staff person or another student, or urging other students to engage in such conduct. Prohibited conduct specifically includes, without limitation, any use of violence, intimidation, force, noise, coercion, threats, stalking, harassment, sexual harassment, public humiliation, theft or destruction of property, retaliation, hazing, bullying, bullying using a school computer or a school computer network, or other comparable conduct. ¹⁸

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¹⁶ Delete "and out-of-sight" if the district wants to provide greater flexibility.

¹⁷ 105 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, and 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.

¹⁸ 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. Districts must also have an age-appropriate policy on sexual harassment. 105 ILCS 5/10-20.69 (final citation pending), added by P.A. 101-418. See policy 7:20, *Harassment of Students Prohibited*, and its ¶n 7 for further detail.

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. These provisions must include procedures for notifying a student's parents/guardians about his/her aggressive behavior and early intervention procedures based upon available community-based 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 Sch. and Northfield Township Sch. Dist.* 225, 2003 WL 21209880 (N.D.Ill. 2003). This decision may have been legislatively overturned by 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.

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*. ¹⁹
12. Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person's personal property. ²⁰
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. ²¹
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. ²²
17. Being involved in gangs or gang-related activities, including displaying gang symbols or paraphernalia. ²³
18. Violating any criminal law, including but not limited to, assault, battery, arson, theft, gambling, eavesdropping, vandalism, and hazing.

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A person commits a felony hate crime when, by reason of the actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin of another individual or group of individuals, regardless of the existence of any other motivating factor or factors, he or she commits assault, battery, aggravated assault, intimidation, stalking, cyberstalking, misdemeanor theft, criminal trespass to residence, misdemeanor criminal damage to property, criminal trespass to vehicle, criminal trespass to real property, mob action, disorderly conduct, transmission of obscene message, harassment by telephone, or harassment through electronic communications as these crimes are defined in the Criminal Code. 720 ILCS 5/12-7.1, amended by P.A.s 100-197 and 100-260. The penalty is heightened when the offense is committed in a school or administrative facility.

720 ILCS 5/26-1(a)(3.5) and (b) make 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.

¹⁹ 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.

²⁰ 720 ILCS 5/26-1(a)(3.5) and (b) make 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.

²¹ 105 ILCS 5/26-2a, amended by P.A.s 102-406, 102-266, and 102-321-100-918 and 100-840; 5/26-9; and 5/26-12, amended by P.A.s 100-840 and 101-81. 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*.

²² State law requires schools to suspend or expel any student who engages in this activity. 105 ILCS 5/31-3.

²³ See *Kelly v. Bd. of Educ. of McHenry Community High Sch. 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.

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. 24
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. 25
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. 26

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. 27

Efforts, including the use of positive interventions and supports, shall be made to deter students, while at school or a school-related event, from engaging in aggressive behavior that may reasonably produce physical or psychological harm to someone else. The Superintendent or designee shall ensure that the parent/guardian of a student who engages in aggressive behavior is notified of the incident. 28 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. 29

Disciplinary Measures 30

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-

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24 This statement of misconduct restates 105 ILCS 5/10-22.6(d-5), amended by P.A. 100-810. 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 105 ILCS 5/10-22.6(d-5).

25 For more information regarding unmanned aircraft systems, see www.faa.gov/uas/.

26 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 22: "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."

27 *Possession* should be defined to avoid vagueness problems.

28 See fn 187.

29 Mandated by 105 ILCS 5/10-20.36.

30 **IMPORTANT:** The practice of suspending or expelling a student based on the number of accumulated disciplinary infractions is illegal under 105 ILCS 5/10-22.6. 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.

exclusionary discipline before using out-of-school suspensions or expulsions.³¹ School personnel shall not advise or encourage students to drop out voluntarily due to behavioral or academic difficulties.³² Potential disciplinary measures include, without limitation, any of the following: ³³

1. Notifying parent(s)/guardian(s).
2. Disciplinary conference.
3. Withholding of privileges.
4. Temporary removal from the classroom.
5. Return of property or restitution for lost, stolen, or damaged property. ³⁴
6. In-school suspension. The Building Principal or designee shall ensure that the student is properly supervised. ³⁵
7. After-school study or Saturday study³⁶ 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.

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Before amendments to 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, 213 Ill.App.3d 77 (1st Dist. 1991); Wilson ex rel. Geiger v. Hinsdale Elementary Dist., 349 Ill.App.3d 243 (2nd Dist. 2004). Whether courts will continue to use these factors is yet to be determined. The amendments to 105 ILCS 5/10-22 call 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).

³¹ 105 ILCS 5/10-22.6(b-5). In addition, subsection c-5 states, "[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, the appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates." 105 ILCS 5/10-22.6(c-5), amended by P.A. 100-810.

³² 105 ILCS 5/10-22.6(h).

³³ Most school attorneys advise against using a grade reduction as a disciplinary measure. A decision upholding such a policy is Knight v. Bd. of Educ., 38 Ill.App.3d 603 (4th Dist. 1976). A decision striking one is Smith v. Sch. 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).

³⁴ While restitution is permitted, issuing a fine or fee as a disciplinary consequence is not permitted. 105 ILCS 5/10-22.6(i). Possible parental liability for damages under the Parental Responsibility Law (740 ILCS 115/5) is discussed in a footnote in sample policy 7:170, *Vandalism*.

³⁵ An in-school suspension program may focus on promoting non-violent conflict resolution and positive interaction with other students and school personnel, and districts may employ a school social worker or a licensed mental health professional to oversee in-school suspension programs. 105 ILCS 5/10-22.6(l), added by P.A. 100-1035. Providing programming during in-school suspensions is not required, however providing such programming will help distinguish them from exclusionary suspensions. See ¶n 3 in policy 5:230, *Maintaining Student Discipline*, for further discussion of in-school suspension programs.

³⁶ Teachers may not be required to teach on Saturdays. 105 ILCS 5/24-2.

8. Community service with local public and nonprofit agencies that enhances community efforts to meet human, educational, environmental, or public safety needs.³⁷ 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. ³⁸
10. Suspension of bus riding privileges in accordance with Board policy 7:220, *Bus Conduct*. ³⁹
11. Out-of-school suspension from school and all school activities in accordance with Board policy 7:200, *Suspension Procedures*.⁴⁰ A student who has been suspended may also be restricted from being on school grounds and at school activities. ⁴¹
12. Expulsion from school and all school activities for a definite time period not to exceed two calendar years in accordance with Board policy 7:210, *Expulsion Procedures*.⁴² A student who has been expelled may also be restricted from being on school grounds and at school activities. ⁴³
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. ⁴⁴
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*,

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³⁷ See *Herndon v. Chapel Hill-Carrboro City Bd.*, 89 F.3d 174 (4th Cir. 1996)(upheld policy requiring students to complete community service in order to graduate).

³⁸ 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 two weeks for violating school rules on cell phones. *Koch v. Adams*, 361 S.W.3d 817 (Ark. 2010).

³⁹ 105 ILCS 5/10-22.6(b) and (b-30).

⁴⁰ 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). This is explained in sample board policy 7:200, *Suspension Procedures*, and its footnotes.

⁴¹ This sentence is optional. A board may make this mandatory by replacing "may also be" with "shall also be."

⁴² An expulsion may be imposed in only limited situations. 105 ILCS 5/10-22.6(b-20). This is explained in sample policy 7:210, *Expulsion Procedures*, and its footnotes.

⁴³ 105 ILCS 5/10-22.6(d) permits expulsion for a definite period of time not to exceed 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.

⁴⁴ This sentence is optional. A board may make this mandatory by replacing "may also be" with "shall also be."

⁴⁴ 105 ILCS 5/10-22.6(a) and (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*, 419 U.S. 565 (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 Sch. Dist. 227* (397 Ill.Dec. 90 (1st Dist. 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.

alcohol, or weapons or in other circumstances as authorized by the reciprocal reporting agreement between the District and local law enforcement agencies. 45

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. 46

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. 47

Isolated Time Out, Time Out, and Physical Restraint 48

Neither isolated time out, time out, nor physical restraint shall be used to discipline or punish a student. These methods are only authorized for use as permitted in 105 ILCS 5/10-20.33, State Board of Education rules (23 Ill.Admin.Code §§ 1.280, 1.285), and the District's procedure(s).

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45 105 ILCS 5/22-885 (final citation pending), added by P.A. 101-478 and amended by P.A.s 102-197 and 102-558. See policy 7:150, *Agency and Policy Interviews*.

46 **Note:** Districts that receive early childhood block grant funding (authorized by 105 ILCS 5/1C-2 of the School Code) are prohibited from expelling children from their early childhood programs. 105 ILCS 5/2-3.71(a)(7) and 105 ILCS 5/10-22.6(k), amended by P.A. 100-105. A district may, however, transition a child to a new program if: (1) it has documented evidence that all available interventions and supports recommended by a qualified professional have been exhausted; (2) the program determines that transitioning a child is necessary for the well-being of the child or his or her peers and staff; and (3) the current and pending programs create a transition plan for the child with parent or legal guardian permission. 105 ILCS 5/2-3.71(a)(7)(C). A district may temporarily remove a child from attendance in the group setting in the case of a serious safety threat to a child or others, or in the case of possession of a weapon as described in 105 ILCS 5/10-22.6(d), but it must then begin the process of documenting interventions and supports as outlined in the law. 105 ILCS 5/2-3.71(a)(7)(E). Ill. State Board of Education (ISBE) rules implementing these new requirements are at 23 Ill.Admin.Code §§ 235.300-235.340. As of PRESS Issue 104 (June 2020), the ISBE forms required to document steps taken in accordance with these rules were being developed and projected to be available in late summer 2020 at: www.isbe.net/Pages/Early-Childhood.aspx. **Consult the board attorney for advice to ensure compliance with ISBE rules.** Compliance with this law does not relieve a district of its obligations to also comply with the Individuals with Disabilities Education Improvement Act of 2004 when disciplining students with disabilities. For further information, see sample policy 7:230, *Misconduct by Students with Disabilities*. For districts that receive early childhood block grant funding, add the following:

Students enrolled in the District's State-funded preschool program(s) may be temporarily removed or transitioned to a new program in accordance with federal and State law. State law prohibits the expulsion of students from the program(s).

If this language is inserted, add 105 ILCS 5/2-3.71(a)(7) to the Legal References for this policy.

47 This paragraph paraphrases 105 ILCS 5/24-24.

48 Isolated time out, time out, or physical restraint may be used by staff members only if their use is authorized by policy and administrative procedure. 105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §§1.280(c) and 1.285. See 7:190-AP4, *Use of Isolated Time Out, Time Out, and Physical Restraint*. **The sample policy allows the use of isolated time out, time out, and physical restraint pursuant only to the conditions allowed in the School Code and ISBE rules.** State statute and ISBE rules contain complex restrictions on the use of isolated time out, time out, and physical restraint. 105 ILCS 5/2-3.130, and 5/10-20.33, amended by P.A. 102-339, and 105 ILCS 5/24-24; 23 Ill.Admin.Code §§1.280(c) and 1.285. According to the ISBE rule, isolated time out, time out, and physical restraints are allowed only if a board authorizes their use in a policy containing the numerous components identified in the rule. To comply with ISBE's rule, a board must also incorporate by reference the district's procedure, i.e., 7:190-AP4, *Use of Isolated Time Out, Time Out, and Physical Restraint*. By doing this, the policy includes the district's procedure. **For a board that wants to prohibit the use of isolated time out, time out, and physical restraint** (1) delete this subhead and its contents; (2) amend the Legal References as follows "23 Ill.Admin.Code §§1.280, 1.285," and (3) delete "Incorporated by Reference: 7:190-AP4 (Use of Isolated Time Out, Time Out, and Physical Restraint)".

Weapons 49

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 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 one or 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. 50

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. 51

Re-Engagement of Returning Students 52

The Superintendent or designee shall maintain a process to facilitate the re-engagement of students who are returning from an out-of-school suspension, expulsion, or an alternative school setting. The goal of re-engagement shall be to support the student's ability to be successful in school following a period of exclusionary discipline and shall include the opportunity for students who have been suspended to complete or make up work for equivalent academic credit. 53

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49 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) 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. §7961 *et seq.*) provides for at least a one year expulsion for students who bring firearms to school. As directed by 20 U.S.C. §7961(b)(1), 105 ILCS 5/10-22.6(d), the superintendent and the board may modify that consequence; however, the superintendent/board may decline to exercise that discretion and instead 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*, 248 Ill.App.3d 534 (1st Dist. 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.

50 Optional.

51 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. §7961(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.

52 Required by 105 ILCS 5/10-22.6(b-25). See 7:190-AP8, *Student Re-Engagement Guidelines*.

53 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).

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.⁵⁴ Upon receiving such a report, the Building Principal or designee shall immediately notify the local law enforcement agency, Ill. Dept. of State Police (ISP), and any involved student's parent/guardian.⁵⁵ *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. ⁵⁶

The Superintendent, Building Principal, Assistant Building Principal, or Dean of Students is authorized to impose the same disciplinary measures as teachers and may suspend students guilty of gross disobedience or misconduct from school (including all school functions) and from riding the school bus, up to ten consecutive school days, provided the appropriate procedures are followed.⁵⁷ The Board may suspend a student from riding the bus in excess of ten school days for safety reasons. ⁵⁸

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⁵⁴ 105 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.

⁵⁵ *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, Ill. Dept. of State Police (ISP), and, if a student is reportedly in possession of a firearm, also the student's parents/guardians.

⁵⁶ 105 ILCS 5/24-24 and 23 Ill.Admin.Code §1.280 require: (1) teachers and other certificated [licensed] employees (except for individuals employed as paraprofessionals) 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. 105 ILCS 5/24-24.

⁵⁷ Required by 105 ILCS 5/10-22.6(b).

⁵⁸ *Id.*

Student Handbook

The Superintendent, with input from the parent-teacher advisory committee,⁵⁹ shall prepare disciplinary rules implementing the District's disciplinary policies. These disciplinary rules shall be presented annually to the Board for its review and approval.

A student handbook, including the District disciplinary policies and rules, shall be distributed to the students' parents/guardians within 15 days of the beginning of the school year or a student's enrollment.

Incorporated

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

LEGAL REF.: 20 U.S.C. §6081, Pro-Children Act of 1994.
20 U.S.C. §7961 et seq., Gun Free Schools Act.
105 ILCS 5/10-20.5b, 5/10-20.14, 5/10-20.28, 5/10-20.36, 5/10-21.7, 5/10-21.10,
5/10-22.6, 5/10-27.1A, 5/10-27.1B, 5/22-33, 5/24-24, 5/26-12, 5/27-23.7, and
5/31-3, and 110/3.10.
105 ILCS 110/3.10, Critical Health Problems and Comprehensive Health Education Act.
410 ILCS 130/, Compassionate Use of Medical Cannabis Pilot Program.
410 ILCS 647/, Powdered Caffeine Control and Education Act.
430 ILCS 66/, Firearm Concealed Carry Act.
23 Ill.Admin.Code §§. 1.280, 1.285.

CROSS REF.: 2:150 (Committees), 2:240 (Board Policy Development), 5:230 (Maintaining Student Discipline), 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 7:70 (Attendance and Truancy), 7:130 (Student Rights and Responsibilities), 7:140 (Search and Seizure), 7:150 (Agency and Police Interviews), 7:160 (Student Appearance), 7:170 (Vandalism), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:200 (Suspension Procedures), 7:210 (Expulsion Procedures), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:270 (Administering Medicines to Students), 7:310 (Restrictions on Publications; Elementary Schools), 7:315 (Restrictions on Publications; High Schools), 8:30 (Visitors to and Conduct on School Property)

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⁵⁹ The board must establish and maintain a parent-teacher advisory committee to develop guidelines on student discipline. See 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, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook.

Students

Suspension Procedures 1

In-School Suspension 2

The Superintendent or designee is authorized to maintain an in-school suspension program. The program shall include, at a minimum, each of the following:

1. Before assigning a student to in-school suspension, the charges will be explained and the student will be given an opportunity to respond to the charges.
2. Students are supervised by licensed school personnel.
3. Students are given the opportunity to complete classroom work during the in-school suspension for equivalent academic credit.

Out-of-School Suspension

The Superintendent or designee shall implement suspension procedures that provide, at a minimum, for each of the following: ³

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¹ State law requires districts to have a policy on student discipline. 105 ILCS 5/10-20.14; 23 Ill. Admin. Code §1.280. State or federal law controls this policy's content. In 2014 the U.S. Dept. of Education (DOE) and the U.S. Dept. of Justice (DOJ) jointly released a school discipline package, *Guiding Principles: A Resource Guide for Improving School Climate and Discipline*, at: www2.ed.gov/policy/gen/guid/school-discipline/guiding-principles.pdf. However, *Guiding Principles* was among six student discipline guidance documents rescinded by a joint DOE and DOJ Dear Colleague letter dated 12-21-18, at: www2.ed.gov/about/offices/list/oea/letters/colleague-201812.pdf.

Boards may authorize *by policy* the superintendent, building principal, assistant building principal, or dean of students to suspend students guilty of gross disobedience or misconduct from school, including all school functions. 105 ILCS 5/10-22.6(b). See 7:190, *Student Behavior*, for such an authorization.

² An in-school suspension program may focus on promoting non-violent conflict resolution and positive interaction with other students and school personnel, and districts may employ a school social worker or a licensed mental health professional to oversee in-school suspension programs. 105 ILCS 5/10-22.6(l), added by P.A. 100-1035. Providing programming during in-school suspensions is not required; however providing educational programs during in-school suspensions will help distinguish them from exclusionary suspensions. See f/n 3 in policy 5:230, *Maintaining Student Discipline*, for further discussion of in-school suspension programs. Contact the board attorney for advice concerning amending this section.

20 ILCS 1705/76, added by P.A. 101-45, requires the Ill. Dept. of Public Health to create and maintain an online database and resource page on its website that contains mental health resources specifically geared toward school social workers, school counselors, parents, teachers, and school support personnel. See the database at: www.dhs.state.il.us.

³ Suspension procedures are required by State law. 105 ILCS 5/10-22.6. The right to attend school is a property right protected by the due process clause of the U.S. Constitution. *Goss v. Lopez*, 419 U.S. 565 (1975). Imposing a short deprivation of this property right by suspending a student for 10 or fewer days requires only minimal due process. The student must be generally informed of the reasons for the possible suspension, and be permitted to tell his/her version of the story. Making a decision to suspend before the hearing violates the basic due process requirement that the hearing be meaningful. *Sieck v. Oak Park-River Forest High School*, 807 F.Supp. 73 (N.D. Ill. 1992).

105 ILCS 5/10-22.6(b) allows a student who is suspended in excess of 20 school days to be immediately transferred to an alternative program in the manner provided in Article 13A or 13B of the School Code. A student cannot be denied transfer because of the suspension, except in cases in which such transfer is deemed to cause a threat to the safety of students or staff in the alternative program.

1. A conference during which the charges will be explained and the student will be given an opportunity to respond to the charges before he or she may be suspended.
2. A pre-suspension conference is not required, and the student can be immediately suspended when the student's presence poses a continuing danger to persons or property or an ongoing threat of disruption to the educational process. In such cases, the notice and conference shall follow as soon as practicable.
3. An attempted phone call to the student's parent(s)/guardian(s).
4. A written notice of the suspension to the parent(s)/guardian(s) and the student, which shall: ⁴
 - a. Provide notice to the parent(s)/guardian(s) of their child's right to a review of the suspension;
 - b. Include information about an opportunity to make up work missed during the suspension for equivalent academic credit; ⁵
 - c. Detail the specific act of gross disobedience or misconduct resulting in the decision to suspend;
 - d. Provide rationale or an explanation of how the chosen number of suspension days will address the threat or disruption posed by the student or his or her act of gross disobedience or misconduct; and
 - e. Depending upon the length of the out-of-school suspension, include the following applicable information:
 - i. For a suspension of 3 school days or less, an explanation that the student's continuing presence in school would either pose: ⁶
 - a) A threat to school safety, or
 - b) A disruption to other students' learning opportunities.
 - ii. For a suspension of 4 or more school days, an explanation: ⁷

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Consult the board attorney for assistance if a suspension will exceed 10 consecutive school days. 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, 419 U.S. 565 (1975). For further discussion, see f/n 43 in policy 7:190, *Student Behavior*.

⁴ 105 ILCS 5/10-22.6.

Consult the board attorney (1) about the specific documentation required in this portion of the notice, and (2) to ensure that 7:200-E1, *Short Term Out-of-School Suspension (1-3 Days) Reporting Form* and 7:200-E2, *Long Term Out-of-School Suspension (4-10 Days) Reporting Form* reflect the exact practices that the district will use to implement this requirement.

⁵ Required by 105 ILCS 5/10-22.6(b-30).

⁶ 105 ILCS 5/10-22.6(b-15) explains that "threat to school safety or a disruption to other students' learning opportunities" shall be determined by the school board or its designee on a case-by-case basis. Consult the board attorney for specific advice regarding the application of these statutory terms in this context (see f/n 8, below).

⁷ 105 ILCS 5/10-22.6(b-20). School officials are granted the sole authority to determine on a case-by-case basis: (1) whether "appropriate and available behavioral and disciplinary interventions have been exhausted;" and (2) whether "the student's continuing presence in school would either (i) pose a threat to the safety of other students, staff, or members of the school community, or (ii) substantially disrupt, impede, or interfere with the operation of the school." Consult the board attorney to request specific training for school officials to apply these statutory terms in this context.

- a) That other appropriate and available behavioral and disciplinary interventions have been exhausted,
 - b) As to whether school officials attempted other interventions or determined that no other interventions were available for the student,⁸ and
 - c) That the student's continuing presence in school would either:
 - i) Pose a threat to the safety of other students, staff, or members of the school community, or
 - ii) Substantially disrupt, impede, or interfere with the operation of the school.
- iii. For a suspension of 5 or more school days, the information listed in section 4.e.ii., above, along with documentation by the Superintendent or designee determining what, if any, appropriate and available support services will be provided to the student during the length of his or her suspension.⁹
5. A summary of the notice, including the reason for the suspension and the suspension length, must be given to the Board by the Superintendent or designee.
6. Upon request of the parent(s)/guardian(s), a review of the suspension shall be conducted by the Board or a hearing officer appointed by the Board.¹⁰ At the review, the student's parent(s)/guardian(s) may appear and discuss the suspension with the Board or its hearing officer and may be represented by counsel. Whenever there is evidence that mental illness may be the cause for the suspension, the Superintendent or designee shall invite a representative from the Department of Human Services or a local mental health agency to consult with the Board.¹¹ After presentation of the evidence or receipt of the hearing officer's report, the Board shall take such action as it finds appropriate. If the suspension is upheld, the Board's written suspension decision shall specifically detail items (a) and (e) in number 4, above.¹²

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⁸ While school officials have discretion to determine the length of suspensions, they must resolve threats, address disruptions, and minimize the length of student exclusions to the greatest extent practicable. 105 ILCS 5/10-22.6(b-20). **Consult the board attorney about the practical implementation of documenting other appropriate and available interventions for the student.**

Last, the law also requires school districts to 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, the appropriate and available supportive services for the promotion of student attendance and engagement, and developmentally appropriate disciplinary methods that promote positive and healthy school climates. 105 ILCS 5/10-22.6(c-5)-amended by P.A. 100-810.

⁹ 105 ILCS 5/10-22.6(b-25).

¹⁰ A board may hear student disciplinary cases in a meeting closed to the public. 5 ILCS 120/2(c)(9).

¹¹ 105 ILCS 5/10-22.6(c), amended by P.A. 102-539.

¹² 105 ILCS 5/10-22.6(b).

LEGAL REF.: ~~105 ILCS 5/10-22.6.~~
~~Goss v. Lopez, 95 S.Ct. 729/419 U.S. 565 (1975).~~
~~Sieck v. Oak Park River Forest High School, 807 F.Supp. 73 (N.D. Ill., E.D.,~~
~~1992).~~
105 ILCS 5/10-20.14, 5/10-22.6.
23 Ill.Admin.Code §1.280.

CROSS REF.: 5:100 (Staff Development Program), 7:130 (Student Rights and Responsibilities),
7:190 (Student Behavior), 7:220 (Bus Conduct)

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Students

Expulsion Procedures 1

The Superintendent or designee shall implement expulsion procedures that provide, at a minimum, for the following: ²

1. Before a student may be expelled, the student and his or her parent(s)/guardian(s) shall be provided a written request to appear at a hearing to determine whether the student should be expelled. The request shall be sent by registered or certified mail, return receipt requested. ³ The request shall: ⁴
 - a. Include the time, date, and place for the hearing.
 - b. Briefly describe what will happen during the hearing.
 - c. Detail the specific act of gross disobedience or misconduct resulting in the decision to recommend expulsion.
 - d. List the student's prior suspension(s).
 - e. State that the School Code allows the School Board to expel a student for a definite period of time not to exceed 2 calendar years, as determined on a case-by-case basis.
 - f. Ask that the student or parent(s)/guardian(s) or attorney inform the Superintendent or Board Attorney if the student will be represented by an attorney and, if so, the attorney's name and contact information.
2. Unless the student and parent(s)/guardian(s) indicate that they do not want a hearing or fail to appear at the designated time and place, the hearing will proceed. It shall be conducted by the Board or a hearing officer appointed by it. ⁵ If a hearing officer is appointed, he or she shall report to the Board the evidence presented at the hearing and the Board shall take such final

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¹ State or federal law requires districts to have a policy on student discipline. (105 ILCS 5/10-20.14; 23 Ill. Admin. Code §1.280). State or federal law controls this policy's content. The discipline of special education students must comply with the Individuals With Disabilities Education Improvement Act of 2004 and the Illinois State Board of Education's Special Education rules. See 7:230, *Misconduct by Students with Disabilities*.

² Expulsion procedures are required by State law, (105 ILCS 5/10-22.6(a). The right to attend school is a property right protected by the due process clause of the U.S. Constitution. *Goss v. Lopez*, 95 S.Ct. 729, 419 U.S. 565 (1975). Thus, an expulsion of more than 10 days requires due process including, but not limited to, notice of the charges, an opportunity to hear the evidence in support of the charges, an opportunity to refute them, and a decision by an impartial decision maker based on the evidence presented. The adequacy of an expulsion hearing is frequently challenged; the board attorney should be consulted as every due process analysis will be highly fact specific. See f/n 9, *infra*.

³ 105 ILCS 5/10-22.6(a). Whenever the term "registered mail" is used in the School Code, it shall be deemed to authorize the use of either registered mail or certified mail, return receipt requested, (105 ILCS 5/1-3.5).

⁴ *Id.* Items a and b address due process, which includes the right to receive a notice with enough detail and with enough time to prepare a defense. Item c details the requirements pertaining to expulsions throughout 105 ILCS 5/10-22.6, amended by P.A. 99-456, eff. 9-15-2016. Items d through f are optional best practice inclusions. **Consult the board attorney about the specific documentation required in this portion of the notice to ensure the district's practice matches the policy language.**

⁵ A board may hear student disciplinary cases in a meeting closed to the public, (5 ILCS 120/2(c)(9)).

action as it finds appropriate. Whenever there is evidence that mental illness may be the cause for the recommended expulsion, the Superintendent or designee shall invite a representative from ~~the Dept. of Human Services~~ a local mental health agency to consult with the Board. ⁶

3. During the expulsion hearing, the Board or hearing officer shall hear evidence concerning whether the student is guilty of the gross disobedience or misconduct as charged. School officials must provide: (1) testimony of any other interventions attempted and exhausted or of their determination that no other appropriate and available interventions were available for the student, and (2) evidence of the threat or disruption posed by the student. The student and his or her parent(s)/guardian(s) may be represented by counsel, offer evidence, present witnesses, cross-examine witnesses who testified, and otherwise present reasons why the student should not be expelled. ⁷ After presentation of the evidence or receipt of the hearing officer's report, the Board shall decide the issue of guilt and take such action as it finds appropriate.
4. If the Board acts to expel the student, its written expulsion decision shall: ⁸
 - a. Detail the specific reason why removing the student from his or her learning environment is in the best interest of the school. ⁹
 - b. Provide a rationale for the specific duration of the recommended expulsion. ¹⁰
 - c. Document how school officials determined that all behavioral and disciplinary interventions have been exhausted by specifying which interventions were attempted or whether school officials determined that no other appropriate and available interventions existed for the student. ¹¹

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⁶ 105 ILCS 5/10-22.6(c), amended by P.A. 102-539.

⁷ A student's opportunity to offer evidence, present witnesses, cross-examine witnesses, and otherwise present reasons why the student should not be expelled generally outweighs a district's interest in not providing the student these opportunities. See, Camlin v. Beecher Comm. Sch. Dist., 791 N.E.2d 127339 Ill.App.3d 1013 (Ill.App. 3rd Dist. 2003) and Colquitt v. Rich Tsp H. S. Dist., 699 N.E.2d 1109298 Ill.App.3d 856 (Ill.App. 1st Dist. 1998). Determining whether denying these opportunities would violate a student's right to due process requires a careful analysis of the facts and federal case law. See Brown v. Plainfield Dist., 500 F. Supp.2d 996 (N.D. Ill. 2007) and Coronado v. Valleyview Sch. Dist., 2008 WL 3346022537 F.3d 791 (7th Cir. 2008).

⁸ Consult the board attorney to request specific training for school officials to apply these statutory terms in the context of expulsions. See 7:210-E1, *Notice of Expulsion Hearing*. The law gives school officials discretion while also requiring them to resolve threats, address disruptions, and minimize the length of student exclusions to the greatest extent practicable. (105 ILCS 5/10-22.6(b-20), amended by P.A. 99-456, eff. 9-15-2016). Yet, the law also requires school districts to make reasonable efforts to provide ongoing professional development to teachers, administrators, school board members, school resources offices, 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), amended by P.A. 99-456, eff. 9-15-2016).

⁹ 105 ILCS 5/10-22.6(a).

¹⁰ *Id.*

¹¹ 105 ILCS 5/10-22.6(b-20), amended by P.A. 99-456, eff. 9-15-2016 requires and grants school officials the sole authority to determine on a case-by-case basis: (1) whether "appropriate and available behavioral and disciplinary interventions have been exhausted," and (2) whether "the student's continuing presence in school would either (i) pose a threat to the safety of other students, staff, or members of the school community or (ii) substantially disrupt, impede, or interfere with the operation of the school."

- d. Document how the student's continuing presence in school would (1) pose a threat to the safety of other students, staff, or members of the school community, or (2) substantially disrupt, impede, or interfere with the operation of the school. ¹²
5. Upon expulsion, the District may refer the student to appropriate and available support services. ¹³

LEGAL REF.: ~~105 ILCS 5/10-22.6(a).~~
Goss v. Lopez, 95 S.Ct. 729 419 U.S. 565 (1975).
105 ILCS 5/10-20.14, 5/10-22.6.

CROSS REF.: 5:100 (Staff Development Program), 7:130 (Student Rights and Responsibilities), 7:190 (Student Behavior), 7:200 (Suspension Procedures), 7:230 (Misconduct by Students with Disabilities)

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¹² Id.

¹³ 105 ILCS 5/10-22.6(b-25). Consult the board attorney about transfers to an alternative program pursuant to Article 13A of the School Code. See Leak v. Board of Education of Rich Township High School District 227, 2015 IL App (1st) 143202, requiring obiter dictum that before school officials transfer students to alternative schools for extended periods of time, they must provide students with a meaningful opportunity to be heard.

Students

Conduct Code for Participants in Extracurricular Activities 1

The Superintendent or designee, using input from coaches and sponsors of extracurricular activities, shall develop a conduct code for all participants in extracurricular activities consistent with School Board policy.² The conduct code shall: (1) require participants in extracurricular activities to conduct themselves as good citizens and exemplars of their school at all times, including after school, on days when school is not in session, and whether on or off school property; (2) emphasize that hazing and bullying activities are strictly prohibited; and (3) notify participants that failure to abide by it could result in discipline, up to and including removal from the activity. Participants who violate the conduct code will be allowed to give an explanation before being progressively disciplined.³ The conduct code shall be reviewed by the Building Principal periodically at his or her discretion and presented to the Board.

Participants in extracurricular activities must abide by the conduct code for the activity and Board policy 7:190, *Student Behavior*. All coaches and sponsors of extracurricular activities shall annually review the conduct code with participants and provide participants with a copy. In addition, coaches and sponsors of interscholastic athletic programs shall provide instruction on steroid abuse prevention to students in grades 7 through 12 participating in these programs. ⁴

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

² Optional:

...and the rules adopted by any association in which the School District maintains a membership.

³ In most cases involving a student's removal from an extracurricular activity, courts have ruled that participation in extracurricular programs is a privilege rather than a right. Clements v. Board of Education of Decatur Public School District No. 61, 133 Ill.App.3d 531 (4th Dist. 1985) 478 N.E.2d 1209 (Ill.App.4, 1985). The deprivation of a privilege does not trigger the Constitution's due process provision. Consequently, unlike school attendance, students generally have no constitutional right to participate in extracurricular programs. See also Kevin Jordan v. O'Fallon THSD 203, 302 Ill.App.3d 1070 (5th Dist. 1999) 706 N.E.2d 137 (Ill.App.5, 1999). This case involved a type of "good citizen" rule in which all student-participants in extracurricular activities agreed to abide by the school's ban on alcohol and drug use. Pursuant to this rule, the school suspended a star football player who police had found intoxicated at a convenience store around 3:00 A.M. The suspension was upheld.

Compare with Mahanoy Area Sch. Dist. v. B.L., 141 S.Ct. 2038 (2021), which involved a student suspended from the cheerleading squad for one year after she posted two vulgar *snaps* on Snapchat while off campus during the weekend. The U.S. Supreme Court held that while schools may have a special interest in regulating some off-campus student speech, e.g., teaching good manners and preventing disruption, here the school's interests were insufficient to overcome the student's interest in free expression, and the one-year suspension violated the student's First Amendment rights. The Court noted that the school's interest in regulation was diminished by the fact that the student's speech did not identify the school, did not target any member of the school community, and was transmitted through a personal cell phone to an audience consisting of her private circle of Snapchat friends. Comments during oral argument suggest the Court was particularly struck by the severity of the discipline issued as well. Careful factual analysis, in consultation with the board attorney, should occur when considering discipline of participants for off-campus activity. Nevertheless, participants who violate the conduct code should be allowed to give an explanation before being removed from the activity. See 7:240-AP1, *Code of Conduct for Extracurricular Activities*.

⁴ 105 ILCS 5/27-23.3.

Extracurricular Drug and Alcohol Testing Program ⁵

The District maintains an extracurricular drug and alcohol testing program in order to foster the health, safety, and welfare of its students. Participation in extracurricular activities is a privilege and participants need to be exemplars. The program promotes healthy and drug-free participation.

Each student and his or her parent(s)/guardian(s) must consent to having the student submit to random drug and alcohol testing in order to participate in any extracurricular activity. Failure to sign the District's "~~Random Drug and Alcohol Testing Consent~~" Consent to Participate in Extracurricular Drug and Alcohol Testing Program form will result in non-participation.

If a test is *positive*, the student will not participate in extracurricular activities until after a *follow-up* test is requested by the Building Principal or designee and the results are reported. The Building Principal or designee will request a *follow-up* test after such an interval of time that the substance previously found would normally be eliminated from the body. If this *follow-up* test is negative, the student will be allowed to resume extracurricular activities. If a *positive* result is obtained from the *follow-up* test, or any later test, the same previous procedure shall be followed.

The Superintendent or designee shall develop procedures to implement this policy. No student shall be expelled or suspended from school as a result of any verified positive test conducted under this program other than when independent reasonable suspicion of drug and/or alcohol usage exists. This program does not affect the District policies, practices, or rights to search or test any student who at the time exhibits cause for reasonable suspicion of drug and/or alcohol use.

Performance Enhancing Drug Testing of High School Student Athletes ⁶

The Illinois High School Association (IHSA) prohibits participants in an athletic activity sponsored or sanctioned by IHSA from ingesting or otherwise using any performance enhancing substance on its banned substance list, without a written prescription and medical documentation provided by a licensed physician who evaluated the student-athlete for a legitimate medical condition. IHSA administers a performance-enhancing substance testing program. Under this program, student athletes are subject to random drug testing for the presence in their bodies of performance-enhancing substances on the IHSA's banned substance list. In addition to being penalized by IHSA, a student may be disciplined according to Board policy 7:190, *Student Behavior*.

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⁵ This program is optional. The U.S. Supreme Court upheld the constitutionality of a student activities drug testing policy that required all middle and high school students to consent to random urinalysis testing for drugs in order to participate in any extracurricular activity. Board of Education of Independent School Dist. No. 92 v. Earls et al., 536 U.S. 822, 122 S.Ct. 2559 (2002). This sample policy, as well as the procedures and forms implementing it, are based on the policy approved by the Seventh Circuit in Todd v. Rush County Schools, 133 F.3d 984 (7th Cir., 1998). Alternatively, this program may be limited to extracurricular athletic participants; if so, add the Drug and Alcohol Testing Program to policy 7:300, *Extracurricular Athletics*, and delete it from here.

⁶ For a list of banned substances, the testing program, and other related resources, see the IHSA Sports Medicine website, www.ihsa.org/Resources/Sports-Medicine/Performance-Enhancing-Drugs-Steroid-Education www.ihsa.org/Resources/Sports-Medicine/Performance-Enhancing-Drugs-Steroid-Education.aspx.

LEGAL REF.: Mahanoy Area Sch. Dist. v. B.L., 141 S.Ct. 2038 (2021).
Board of Education of Independent School Dist. No. 92 v. Earls, 536 U.S. 822-22 S.Ct. 2559 (2002).
Vernonia Sch. Dist. 475 v. Acton, 515 U.S. 646 (1995).
Clements v. Board of Education of Decatur, 133 Ill.App.3d 531 (4th Dist. 1985)478 N.E.2d 1209 (Ill.App.4, 1985).
Kevin Jordan v. O'Fallon THSD 203, 302 Ill.App.3d 1070 (5th Dist. 1999)706 N.E.2d 137 (Ill.App.5, 1999).
Todd v. Rush County Schools., 133 F.3d 984 (7th Cir., 1998).
Vernonia School Dist. 475 v. Acton, 515 U.S. 646 (1995).
105 ILCS 5/24-24, 5/27-23.3, and 25/2.

CROSS REF.: 5:280 (Duties and Qualifications), 6:190 (Extracurricular and Co-Curricular Activities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:190 (Student Behavior), 7:300 (Extracurricular Athletics)

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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 school 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 school psychologist⁴ as needed. In all cases, written permission to administer a psychological examination must be

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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 in the areas of: (1) guidance and counseling needs; (2) psychological needs; (3) social work needs; and (4) health needs. 23 Ill.Admin.Code §1.420(q). Endorsement requirements for various types of school support personnel are referenced in fns 3 through 6 below, and further information is available at www.isbe.net/Pages/PEL-School-Support-Ed-Lic.aspx. Until June 20, 2023, an individual who fails to meet the necessary qualifications for a specific school support personnel endorsement, but holds another professional license or certification approved by ISBE, may seek short-term approval for assignment to a position in situations where an unforeseen vacancy occurs. Short-term approvals are valid for three full fiscal years. 23 Ill.Admin.Code §25.432.

P.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 at: www.isbe.net/Documents/ess-task-force-final-report0610.pdf#search=%22ensuring%20success%20in%20school%20task%20force%22. <http://povertylaw.org/advocacy/women/pubs/essa-task-force-report>. 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 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 licensed under 105 ILCS 5/21-25. However, that licensure Section 21-25 was repealed by P.A. 98-413, eff. 8-16-13.

A school nurse may hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§-1.760(c), 23.120, 25.245, amended at 42 Ill. Reg. 8901. 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, amended at 42 Ill. Reg. 8901.

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 school social worker.⁵ A student's parent/guardian must consent to regular or continuing services from a social worker.
4. Guidance and school counseling⁶ services.
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.⁷

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⁴ A *school psychologist* means a psychologist who holds a Professional Educator License with a school psychologist endorsement per 105 ILCS 5/21B-25 and either: (1) has graduated with a master's degree or higher degree in psychology or educational psychology from an institution of higher education that maintains equipment, courses of study, and standards of scholarship approved by the Ill. State Board of Education (ISBE), has had at least one school year of full-time supervised experience in the delivery of school psychological service approved by the State Superintendent of Education, and has such additional qualifications as may be required by ISBE; or (2) holds a valid Nationally Certified School Psychologist credential. 105 ILCS 5/14-1.09, amended by P.A. 100-750. School psychologists hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§-1.760(a), 23.130, 25.235, amended at 42 Ill. Reg. 8900. 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 §§25.235, amended at 42 Ill. Reg. 8900.

⁵ A *school social worker* means a social worker who has graduated from an accredited graduate school of social work and has such additional qualifications as may be required by ISBE and who holds a Professional Educator License with a school support personnel endorsement for school social work per 105 ILCS 5/21B-25. 105 ILCS 5/14-1.09a. See 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§-1.760(a), 23.140, 25.215, amended at 42 Ill. Reg. 8896. 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 §§25.215. School social workers may not provide services outside of their district employment to any student(s) attending school in the district. 23 Ill.Admin.Code §§25.215(d), amended by P.A. 100-356. *School marriage and family therapists* are another type of school support personnel; they hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§23.150, 25.260.

⁶ *School counselors* hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§-1.760(a), 23.110, 25.2255. 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 §§25.225, amended at 42 Ill. Reg. 8897. *School guidance counselors* refers to district employees that work in high schools to offer students advice and assistance in making career or college plans; no specific school support personnel endorsement exists for school guidance counselors. 105 ILCS 5/22-90 (final citation pending), added by P.A. 102-327.

In contrast, *professional counselors* and professional counseling practice in Illinois are governed by the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act and its implementing regulations. 225 ILCS 107/; 68 Ill.Admin.Code Part 1375. The Mental Health and Developmental Disabilities Code, 405 ILCS 5/, amended by P.A.s 100-196 and 100-614, provides that minors 12 years of age or older may request and receive up to eight 90-minute sessions (previously five 45-minute sessions) of professional counseling services or psychotherapy (provided by a clinical psychologist) without the consent of the minor's parent, guardian, or person in loco parentis. 405 ILCS 5/3-5A-105, added by P.A. 100-614. Most school districts do not regularly provide *professional counseling* or *clinical psychological* services to students. Instead, most districts provide *school counseling* or *school psychological* services to students, and Illinois law does not specify any limits on the number of school counseling or school psychological sessions which a minor may have before obtaining parent/guardian permission. If your district seeks to regularly provide *professional counseling* or *clinical psychological* services to students, consult with your board attorney about potential changes to board policies and administrative procedures, as well as collective bargaining issues.

⁷ Optional. 105 ILCS 5/10-20.59, added by P.A. 99-781 and amended by P.A. 100-201, 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 fn 13 in 7:50, *School Admissions and Student Transfers To and From Non-District Schools*, for liaison responsibilities and requirements.

The Superintendent or designee shall develop protocols for responding to students with social, emotional, or mental health needs that impact learning ability.⁸ The District, however, assumes no liability for preventing, identifying, or treating such needs.

Erin's Law Counseling Options, Assistance, and Intervention⁹

The Superintendent or designee will ensure that each school building's Student Support Committee identifies counseling options for students who are affected by sexual abuse, along with District and community-based options for victims of sexual abuse to obtain assistance and intervention. Community-based options must include a Children's Advocacy Center and sexual assault crisis center(s) that serve the District, if any.

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.: 105 ILCS 5/10-23.13(b) and 5/21B-25(G).
405 ILCS 49/, Children's Mental Health Act of 2003.
740 ILCS 110/, Mental Health and Developmental Disabilities Confidentiality Act.
~~405 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)

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⁸ Required by the Children's Mental Health Act of 2003, 405 ILCS 49/15(b).

⁹ Required by *Erin's Law*, 105 ILCS 5/10-23.13(b)(2), (3), and (5), amended by P.A. 102-610. See sample policy 5:90, Abused and Neglected Child Reporting, and administrative procedure 5:90-AP, Coordination with Children's Advocacy Center, for more information on Children's Advocacy Centers.

Students

Exemption from Physical 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 Upon written notice from a student's parent/guardian, a student will be excused from engaging in the physical activity components of physical education during a period of religious fasting.⁴

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.⁵

State law prohibits the 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.⁶

A student who is eligible for special education may be excused from physical education courses in either of the following situations:⁷

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

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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 §1.425(e), amended at 42 Ill.Reg. 11542-43. 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(d)(1) and (2), amended at 42 Ill.Reg. 11541. 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.

⁴ 105 ILCS 5/27-6(b-5), added by P.A. 102-405. A note from clergy or a religious leader is unnecessary and should not be requested by a district.

⁵ Required by 105 ILCS 5/27-6, amended by P.A. 100-465; and 23 Ill.Admin.Code §1.425(d)(3), amended at 42 Ill.Reg. 11541-42.

⁶ 105 ILCS 5/27-6(b); 23 Ill.Admin.Code §1.425(e)(6), amended at 42 Ill.Reg. 11543. See 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.

⁷ 105 ILCS 5/27-6(b) and 23 Ill.Admin.Code §1.425(e)(5)(A) and (B), amended at 42 Ill.Reg. 11543.

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).⁸

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*.⁹

Students in grades 7 and 8 may submit a written request to the Building Principal to be excused from physical education courses because of his or her ongoing participation in an interscholastic or extracurricular athletic program.¹⁰ The Building Principal will evaluate requests on a case-by-case basis.

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

Students who have been excused from physical education shall return to the course as soon as practical.¹² The following considerations will be used to determine when a student shall return to a physical education course:¹³

1. The time of year when the student's participation ceases;
2. The student's class schedule; and
3. The student's future or planned additional participation in activities qualifying for substitutions for physical education as outlined in policy 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students*.¹⁴

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⁸ 105 ILCS 5/27-6(b).

⁹ 105 ILCS 5/27-6, amended by P.A. 100-465; 23 Ill.Admin.Code §1.425(e), added at 42 Ill.Reg. 11542-43. Delete this sentence for elementary school districts.

¹⁰ Optional. *Id.* See ¶n 194 in 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students*, for discussion of what constitutes an *interscholastic* or *extracurricular athletic program*. Delete this paragraph for high school districts.

For elementary or unit school boards that want to explain the meaning of *interscholastic* or *extracurricular athletic program*, insert the following option:

Interscholastic or extracurricular athletic programs are organized school-sponsored or school-sanctioned activities for students that are not part of the curriculum, not graded, not for credit, generally take place outside of school instructional hours, and under the direction of a coach, athletic director, or band leader.

¹¹ 23 Ill.Admin.Code §1.425(c), amended at 42 Ill.Reg. 11542. Districts must maintain records showing that the criteria set forth in 105 ILCS 5/27-6, amended by P.A. 100-465, was applied to the student's individual circumstances.

¹² 23 Ill.Admin.Code §1.425(c)(1)(A)-(C), added at 42 Ill.Reg. 11542.

¹³ Insert any additional criteria the board may want to use.

¹⁴ Delete item #3 for elementary districts, move "and" to the end of sentence number 1, delete the semicolon at the end of number 2 and insert a period.

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).

CROSS REF.: 6:60 (Curriculum Content), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students)

DRAFT

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, digital filesMP3 files, flash memory, etc.), or combinations of these whether off-line (e.g., a printed book, digital filesCD-ROM, etc.) or online (e.g., any website, social networking site, database for information retrieval, etc.), or (3) information or material on

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¹ State or federal law controls this policy's content. This policy concerns an area in which the law is unsettled. It applies to only to elementary and or unit districts with (both elementary and high school students) ~~only~~. Unit districts should ~~adopt~~ 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 Sch. Dist. v. Kuhlmeier, 408 S.Ct. 562, 484 U.S. 260 (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 Cmty. Unit Sch. Dist. No. 118, 9 F.3d 1295 (7th Cir. 1993).

electronic devices (e.g., ~~text~~ or voice messages delivered by cell phones, tablets, and other hand-held devices).⁴

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

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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.

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. Sch. Bd. of the Sch. Dist. #12 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 Sch. 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., 711 F.Supp.2d 1094593 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 Sch. Dist. #12, 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 ILCS 405/3-40 (Juvenile Court Act purposes), and *non-consensual dissemination of private sexual images* as defined by 720 ILCS 5/11-23.5 (Criminal Code of 2012 purposes). 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 these statutory terms and definitions-indecent-visual-depiction.

⁸ Morse v. Frederick, 551 U.S. 393 (2007).

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 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.

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

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 Cmty. Community Unit Sch. Dist. No. 118, 9 F.3d 1295 (7th Cir. 1993); Leal v. Everett Public Schools, 88 F.Supp.3d 1220 (2015) WL 728651 (W.D. Wash. 2015).

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. Sch. Bd. of the School Dist. 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 for failure to follow an extracurricular conduct code (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 Behavior*). For example, see:

J.S. v. Blue Mountain Sch. Dist., 650 F.3d 915 (3rd Cir. 2011), 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.

LEGAL REF.: 105 ILCS 5/27-23.7.
Hazelwood v. Kuhlmeier, 408 S.Ct. 562484 U.S. 260 (1988).
Hedges v. Wauconda Cmty.ommunity Unit Sch.ool Dist. No. 118, 9 F.3d 1295
(7th Cir. 1993).
Tinker v. Des Moines Indep. Cmty. Sch. Dist., 89 S.Ct. 733393 U.S. 503 (1969).
Hedges v. Wauconda Cmty. Unit Sch. Dist. No. 118, 9 F.3d 1295 (7th Cir. 1993).

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)

DRAFT

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

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1 State law requires school boards to adopt a 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 ISSRA (105 ILCS 10/, amended by P.A.s 102-557 and 101-515 and 100-532, implemented by ISBE rules at 23 Ill.Admin.Code Part 375).

In addition, the U.S. Dept. of Education's (DOE) *Protecting Student Privacy* webpage, a service of the Privacy Technical Assistance Center (PTAC) and the Student Privacy Policy Office, is a *one-stop* resource for education stakeholders to learn about student privacy and confidentiality, including data privacy and security practices related to student-level longitudinal data systems, at: www.studentprivacy.ed.gov/. PTAC published a guide for school officials titled *Protecting Student Privacy While Using Online Educational Services: Requirements and Best Practices* (2014), at: www.studentprivacy.ed.gov/resources/protecting-student-privacy-while-using-online-educational-services-requirements-and-best.

The DOE also issued a summary of resources on FERPA and virtual learning (2020) at: www.studentprivacy.ed.gov/resources/ferpa-and-virtual-learning. **Boards that wish to enter into cloud computing and other operator contracts must comply with the Student Online Personal Protection Act (SOPPA), 105 ILCS 85/, amended by P.A. 101-516, eff. 7-1-21, and should contact the board attorney for implementation guidance.** See also f/n 2, item #7, below.

Confusion persists regarding the interplay between the FERPA and the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. 104-191). The Privacy Rule implementing HIPAA, issued by the U.S. Dept. of Health and Human Services (DHS), addresses the disclosure of individuals' health information by *covered entities*. 45 C.F.R. Parts 160 and 164, Subparts A and E. 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. §160.103. In most cases this exception relieves school districts of complying with burdensome privacy notices and authorization forms. In December 2019, DHS and DOE issued an update to its *Joint Guidance on the Application of FERPA and HIPAA to Student Health Records*, at:

<https://studentprivacy.ed.gov/resources/joint-guidance-application-ferpa-and-hipaa-student-health-records>
www.studentprivacy.ed.gov/resources/joint-guidance-application-ferpa-and-hipaa-student-health-records
www.studentprivacy.ed.gov/sites/default/files/resource_document/file/2019%20HIPAA%20FERPA%20Joint%20Guidance%20508.pdf.

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 f/n 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 5/10-20.38.
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. Divorced or separated parents/guardians with and without *parental responsibility* (formerly custody) are both permitted to inspect and copy the student's school student records. -The Ill. Marriage and Dissolution of Marriage Act (IMDMA), 750 ILCS 5/602.11.
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. *Id.*

student and by which a student may be identified individually that is maintained by a school or at its direction by a school employee, regardless of how or where the information is stored, except as provided in State or federal law 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. 4
3. Video and other electronic recordings (including without limitation, electronic recordings made on school buses⁵) 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 18⁷ years who has been arrested or taken into custody. 6

State and federal law grants students and parents/guardians certain rights, including the right to inspect, copy⁷, and challenge school student records.⁸ The information contained in school student

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7. SOPPA (105 ILCS 85, amended by P.A. 101-516, eff. 7-1-24) addresses a school district's obligations related to covered information of students and contracts with educational technology operators. In some instances, covered information as defined under SOPPA may also qualify as education records under FERPA and school student records under ISSRA. See policy 7:345, *Use of Educational Technology/Technologies Use; Student Data Privacy and Security*, and administrative procedure 7:345-AP1, *Use of Educational Technologies Use; Student Data Privacy and Security*, for a description of SOPPA obligations.

Note: Nos. 5 and 6 above 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. 1-011 v. Falvo*, 534 U.S. 426 (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 Educ.*, 332 Ill.App.3d 60 (1st Dist. 2002).

3 20 U.S.C. §1232g(a)(4); 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 a helpful resource, see fn 1 in policy 7:150, *Agency and Police Interviews*.

5 For an explanation, see footnotes in policy 7:220, *Bus Conduct*.

6 Many lawyers believe that once these records are received by a school, they are protected as *education records* under FERPA. Consult the board attorney for advice.

7 105 ILCS 10/5(a).

105 ILCS 10/5(c), amended by P.A. 100-532, requires that a parent's or student's request to inspect and copy records be granted no later than 10 business days (previously 15 school days) after the date of receipt of such a request by the official records custodian.

105 ILCS 10/5(c-5), added by P.A. 100-532, outlines how a school district may extend the 10 business day timeline for response by not more than five business days from the original due date if one or more of these six reasons applies:

1. The requested records are stored in whole or in part at other locations than the office having charge of the requested records;
2. The request required the collection of a substantial number of specified records;
3. The request is couched in categorical terms and requires an extensive search for the records responsive to it;
4. The requested records have not been located in the course of routine search and additional efforts are being made to locate them;
5. The request for records cannot be complied with by the school district within the time limits prescribed by subsection (c) without unduly burdening or interfering with the operations of the school district; or
6. There is a need for consultation, which shall be conducted with all practicable speed, with another public body or school district among two or more components of a public body or school district having a substantial interest in the determination or in the subject matter of the request.

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.⁹ The District may release directory information as permitted by law, but a parent/guardian shall have the right to opt-out of the release of directory information regarding his or her child.¹⁰ However, ~~The District will comply with State or federal law with regard to release of 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, including, where applicable, without notice to, or the consent of, the student's parent/guardian or eligible student.~~¹¹ Upon request, the District discloses school student records without parent consent to the official records custodian of another school in which a student has enrolled or intends to enroll, as well as to any other person as specifically required or permitted by State or federal law.¹²

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

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The person making the request and the school district may also agree in writing to extend the timeline for compliance for a period to be determined by the parties. *Id.*

8 23 Ill.Admin.Code §375.10 provides that districts may, through board policy, allow scores received on college entrance examinations to be included on a student's academic transcript if that inclusion is requested in writing by a student, parent or person who enrolled the student. If the board of a unit or high school district wants to allow this, insert:

A student or the student's parent/guardian may request, in writing, that scores received on college entrance examinations be included on the student's academic transcript.

Note: Though 23 Ill.Admin.Code §375.10 uses the phrase "student, parent or person who enrolled the student," student records rights under ISSRA and FERPA attach to *eligible students* and their parents/guardians, not to "a person who enrolled the student" (though that person is typically a parent or guardian).

If a board allows for the inclusion of college entrance examination scores on academic transcripts, amend the district's notification to parents/guardians and students of their school student records rights with the process for requesting the inclusion. 23 Ill.Admin.Code §375.30(d)(5). See 7:340-AP1; E1, *Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records*, for an example.

9 23 Ill.Admin.Code §226.740(a).

10 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. §99.37. 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) -no longer includes *gender* as information which may be designated as directory information. This is consistent with attorneys' views that Illinois' past practice of including *gender* within directory information may have violated 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, DOE 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*, DOE Family Policy Compliance Office (September 2009). Consult the board attorney about the practical implementation of this issue. Some attorneys, for example, believe photos of the "Girls Volleyball Team" may contradict DOE guidance.

11 20 U.S.C. §1232g(j), as added by Sec. 507 of the U.S.A. Patriot Act of 2001.

12 34 C.F.R. §99.31; 105 ILCS 10/6, amended by P.A. 102-557.

members of this policy, and inform students and their parents/guardians of their rights regarding school student records. 13

Student Biometric Information Collection 14

The Superintendent or designee may recommend a student biometric information collection system solely for the purposes of identification and fraud prevention.¹⁵ 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 responsibility¹⁶ or the student (if over the age of 18).¹⁷ Upon a student's 18th birthday, the District shall obtain written permission from the student to collect student biometric information.¹⁸ 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. 19

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

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13 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; 105 ILCS 10/4, amended by P.A. 101-161; 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 7:340-API, E1, *Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records*, and 7:340-API, *School Student Records*.

14 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. This section restates the School Code's requirements for a student biometric information policy.

15 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.

16 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 IMDMA, 750 ILCS 5/, changed the terms *custody* and *visitation* to *parental responsibility* and *parenting time*, respectively. It 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 IMDMA does not amend ISSRA or the School Code.

17 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-API, E5, *Biometric Information Collection Authorization*.

18 Districts must reissue 7:340-API, 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 ISSRA 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).

19 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).

the person having legal custody/parental responsibility of the student or the student (if over the age of 18).²⁰ 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. ²¹

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

50 ILCS 205/7, Local Records Act.

105 ILCS 5/10-20.1221b, ~~5/20.37~~, 5/10-20.40, and 5/14-1.01 et seq.

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

105 ILCS 85/, Student Online Personal Protection Act.

325 ILCS 17/, Children's Privacy Protection and Parental Empowerment Act.

750 ILCS 5/602.11, Ill. Marriage and Dissolution of Marriage Act.

23 Ill. Admin. Code Parts 226 and 375.

Owasso I.S.D. No. I-011 v. Falvo, 534 U.S. 426 (2002).

Chicago Tribune Co. v. Chicago Bd. of Ed., 332 Ill. App.3d 60 (1st Dist. 2002).

CROSS REF.: 5:100 (Staff Development Program), 5:130 (Responsibilities Concerning Internal Information), 7:15 (Student and Family Privacy Rights), 7:220 (Bus Conduct), 7:345 (Use of Educational Technologies; Student Data Privacy and Security)

ADMIN. PROC.: 7:15-E (Notification to Parents of Family Privacy Rights), 7:340-API (School Student Records), 7:340-API, E1 (Notice to Parents/Guardians and Students of Their Rights Concerning a Student's School Records), 7:340-API, E3 (Letter to Parents and Eligible Students Concerning Military Recruiters and Postsecondary Institutions Receiving Student Directory Information), 7:340-API, E4 (Frequently Asked Questions Regarding Military Recruiter Access to Students and Student Information, 7:340-API, E5 (Biometric Information Collection Authorization), 7:340-AP2 (Storage and Destruction of School Student Records), 7:340-AP2, E1 (Letter Containing Schedule for Destruction of School Student Records)

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²⁰ 105 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 15* for a discussion about the terms *custody* and *parental responsibility*.

²¹ Whether the student biometric information is an education record under FERPA 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 DHS's interpretations of 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.

Students

Use of Educational Technologies; Student Data Privacy and Security 1

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

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

Federal and State law govern the protection of student data, including school student records and/or covered information.² The sale, rental, lease, or trading of any school student records or covered information by the District is prohibited.³ Protecting such information is important for legal

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¹ The Student Online Personal Protection Act (SOPPA) (105 ILCS 85/), amended by P.A. 101-516, eff. 7-1-21, controls the content of this policy. SOPPA specifically requires boards to adopt a policy for designating which district employees are authorized to enter into agreements with operators (see Operator Contracts subhead). SOPPA is the State law that governs how educational technology companies, schools, and the Ill. State Board of Education (ISBE) use and protect covered information of students. The amendments to SOPPA were intended to strengthen protections for online student data, in part by centralizing the vetting and contracting process within schools, and to give parents ready access to information about how their children's data is being used at school. SOPPA does not, however, require a district to obtain parent opt-in or separate consent for the use of online services or applications, nor is such consent required if the operator is acting as a school official pursuant to the delineated exception in the Family Educational Rights and Privacy Act's (FERPA)(20 U.S.C. §1232g) implementing regulations. See 34 C.F.R. §99.3(a). A helpful resource published by the Ill. Council of School Attorneys, *Answers to FAQs Regarding the Student Online Personal Protection Act and Public Schools*, is available to IASB members on IASB's website at: www.iasb.com/policy-services-and-school-law/guidance-and-resources/student-online-personal-protection-act/. Additional SOPPA resources are available through ISBE at: www.isbe.net/Pages/Educational-Technology.aspx.

² 105 ILCS 5/10-20.74, added by P.A. 101-654, requires districts to submit to the ISBE an annual report about its educational technology capacity and policies, including device availability for students, school-based access and infrastructure, professional learning and development training opportunities, and documentation of developmentally appropriate computer literacy instruction embedded in the district's curriculum at each grade level. See 2:150-AP, *Superintendent Committees*, at ¶n 20, for a list of sample PRESS policies that apply to this submission. See also policy 6:60, *Curriculum Content*, at ¶n 25, and 6:300-E2, *State Law Graduation Requirements*, for more information about computer literacy requirements.

³ See policy 7:340, *Student Records*, and its implementing administrative procedure, 7:340-API, *School Student Records*, for requirements addressing school student records under federal and State law. SOPPA does not override or otherwise supersede the requirements of FERPA or the Ill. School Student Records Act (ISSRA) (105 ILCS 10/). 105 ILCS 85/30(9), amended by P.A. 101-516, eff. 7-1-21.

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

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

compliance, District operations, and maintaining the trust of District stakeholders, including parents, students and staff. 4

Definitions 5

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

Operators are entities (such as educational technology vendors) that operate Internet websites, online services, online applications, or mobile applications that are designed, marketed, and primarily used for K-12 school purposes. 6

Breach means the unauthorized acquisition of computerized data that compromises the security, confidentiality or integrity of covered information maintained by an operator or the District. 7

Operator Contracts

The Superintendent or designee designates which District employees are authorized to enter into written agreements with operators for those contracts that do not require separate Board approval.⁸ Contracts between the Board and operators shall be entered into in accordance with State law and Board policy 4:60, *Purchases and Contracts*, and shall include any specific provisions required by State law. 9

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4 SOPPA permits, but does not require, districts to designate an appropriate staff person as a Privacy Officer, who may also be an official records custodian under ISSRA, to carry out the duties and responsibilities assigned to schools and to ensure a district's compliance with the requirements of SOPPA. 105 ILCS 85/27(f), added by P.A. 101-516, eff. 7-1-21. For boards that wish to designate a Privacy Officer, add the below sentence to the end of the paragraph. Boards may designate an individual other than the Superintendent to serve in the capacity of Privacy Officer, such as a Business Manager, IT Director, or District Records Custodian.

The Board designates the Superintendent to serve as Privacy Officer, who shall ensure the District complies with the duties and responsibilities required of it under the Student Online Personal Protection Act, 105 ILCS 85/, amended by P.A. 101-516, eff. 7-1-21.

5 105 ILCS 85/5, amended by P.A. 101-516, eff. 7-1-21. See f/n 3 above for more discussion about *covered information*.

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

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

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

9 SOPPA requires specific provisions be included in a contract with any operator that seeks to receive covered information from a school district. 105 ILCS 85/15(4) and 85/27(g), added by P.A. 101-516, eff. 7-1-21. See 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*, for details.

Security Standards

The Superintendent or designee shall ensure the District implements and maintains reasonable security procedures and practices that otherwise meet or exceed industry standards designed to protect covered information from unauthorized access, destruction, use, modification, or disclosure.¹⁰ In the event the District receives notice from an operator of a breach or has determined a breach has occurred, the Superintendent or designee shall also ensure that the District provides any breach notifications required by State law. ¹¹

LEGAL REF.: 20 U.S.C. §1232g, Family and Educational Rights and Privacy Act, implemented by 34 C.F.R. Part 99.
105 ILCS 10/, Ill. School Student Records Act.
105 ILCS 85/, Student Online Personal Protection Act.
23 Ill. Admin. Code Part 380.

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

¹⁰ 105 ILCS 85/27(e), added by P.A. 101-516, eff. 7-1-21. SOPPA does not provide specifics regarding security procedures or practices, nor is there a formal, nationalized standard specific to K-12, but the law does. However, SOPPA requires ISBE to make available on its website guidance for schools pertaining to reasonable security procedures and practices. 105 ILCS 85/28, added by P.A. 101-516, eff. 7-1-21. ISBE has endorsed a security best practices document published by the Learning Technology Center of Illinois (an ISBE grant-funded program) as its guidance that all districts should follow, which is available at: www.isbe.net/Pages/Educational-Technology.aspx (see *Reasonable Security Practices* dropdown). ISBE, the U.S. Dept. of Education (DOE) and other experts in the field agree that training of all staff with access to a school's network is important to protecting schools against cyber threats, although such training is not currently mandated in Illinois. ISBE's grant-funded program, The Learning Technology Center of Illinois, offers cybersecurity training to administrators and educators throughout the State. See www.ltc.org. The U.S. Dept. of Education has also issued multiple guidance documents on security best practices for schools, available at: <https://studentprivacy.ed.gov/security> www.studentprivacy.ed.gov/topic/security-best-practices.


¹¹ In the event of a breach of covered information of students, SOPPA requires school districts to provide two types of notices: (1) individual notices to the parents of students whose covered information was involved in the breach and (2) a more general notice about the breach on the district's website (or at the district administrative office, if it does not maintain a website) if the breach involved 10% or more of the district's student enrollment. 105 ILCS 85/27(a)(5) & (d), added by P.A. 101-516, eff. 7-1-21. See 7:345-AP, *Use of Educational Technologies; Student Data Privacy and Security*, for details about the required notices.

20. First Reading of Revised Board of Education Policy 7:70 - Attendance and Truancy

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Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policy for Section 7:70 - Attendance and Truancy. **See Attachment No. 18.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services 

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policy 7:70 - Attendance and Truancy

Reason for Board Consideration: The Board of Education approves updated Board Policy.

Action Necessary: That the Board of Education approve the updated Board Policy

Facts: In the continuing quest to update the District's Board Policies, attached is Board Policy 7:70 - Attendance and Truancy, which was included as part of the November 2021 PRESS update review. This policy is updated in response to several changes in the Illinois School due to:

- P.A. 102-157, requiring schools to develop an absenteeism and truancy policy and to annually communicate it to students, parents and guardians.
- P.A.s 102-266 and 102-321, allowing students to be absent for up to five days for mental or behavioral health reasons.
- P.A. 102-406, prohibiting schools from requiring students excused for religious reasons to submit a written excuse after returning to school.
- P.A. 102-471, requiring a written policy related to absences and missed homework assignments due to students' pregnancy.
- Other continuous improvement updates are made to the Legal References and footnotes are also updated to align with the changes.

Cost: None

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy 7:70 - Attendance and Truancy.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

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), or (b) who is enrolled in any of grades kindergarten through 12 in the public school regardless of age.

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 of religious reasons, including to observe a religious holiday, for religious instruction, or because his or her religion forbids secular activity on a particular day(s) or time of 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 (including mental or behavioral health of the student),³ observance of a religious holiday, death in the immediate family, family emergency, other situations beyond the control of the student as determined by the Board, voting pursuant to policy 7:90, *Release During School Hours* (10 ILCS 5/7-42 and 5/17-15), other circumstances that cause reasonable concern to the parent/guardian for 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 5/22-90 (final citation pending), added by P.A. 102-157, requires any school receiving public funds to develop and annually communicate to its students and their parents/guardians an absenteeism and truancy policy. This policy must be updated every two years and filed with the Ill. State Board of Education (ISBE) and the regional superintendent of schools [or Intermediate Service Center Executive Director, whichever is appropriate]. Id. 105 ILCS 5/3-0.01 states that any references to "regional superintendent" include the chief administrative officer of Intermediate Service Centers established under 105 ILCS 5/2-3.62. 105 ILCS 5/26-13 requires a policy identifying supportive services and available resources for *transient and chronic transients* (defined in 105 ILCS 5/26-2a, amended by P.A. 100-918). 23 Ill. Admin. Code 81.290 requires the same plus that the policy contain 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 unexcused student absenteeism.

² 105 ILCS 5/26-2, amended by P.A.s 100-825, 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.

105 ILCS 5/26-1, amended by P.A.s 102-406, 102-266 and 102-321, contains the compulsory school age exemptions. Each listed exception is specifically included in the statute, except the reference to *home school*. See 7:40, *Nonpublic School Students, Including Parochial and Home-Schooled Students*, regarding assigning students who enroll from a non-public school. See 6:150, *Home and Hospital Instruction*, regarding providing instruction to a pregnant student or other student who is medically unable to attend school.

³ 105 ILCS 5/26-1 and 5/26-2a, amended by P.A.s 102-266 and 102-321. A student may be absent for mental or behavioral health for up to five days without providing a medical note, and the student must be given an opportunity to make up any missed school work. *Medical note* is not defined, but the same portion of the statute discusses a student's inability to attend school due to a disability being certified by an Illinois licensed physician, chiropractic physician, advanced practice registered nurse, or physician assistant, presumably any of these individuals could provide a *medical note*. After the second mental health day used, the student may be referred to the appropriate school support personnel. Id. See policy 7:250, *Student Support Services*.

student's mental, emotional, or physical health or safety, or other reason as approved by the Superintendent or designee.⁴ Students absent for a valid cause may make up missed homework and classwork assignments in a reasonable timeframe. ⁵

Absentecism 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. ⁶
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. ⁷
3. A protocol for excusing a student from attendance on a particular day(s) or at a particular time of day when his/her parent/guardian is an active duty member of the uniformed services

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

⁴ 105 ILCS 5/22-90(a)(1) (final citation pending), added by P.A. 102-157, requires a policy with a definition of valid cause for absence in accordance with 105 ILCS 5/26-2a. These reasons are in 105 ILCS 5/26-2a, amended by P.A. 100-840, except that (1) "other reason as approved by the Superintendent," and (2) absences for students to vote authorized by 10 ILCS 5/7-42 and 5/17-15, amended by P.A. 101-624, eff. 6-1-20 were added. An Ill. State Board of Education (ISBE) rule requires that the absenteeism and truancy policy defines valid causes for absence. 23 Ill.Admin.Code §1.290.

For elementary districts, delete the following phrase from the second sentence of this paragraph: "~~voting pursuant to policy 7:90, Release During School Hours (10 ILCS 5/7-42 and 5/17-15),~~" and delete 7:90, *Release During School Hours*, from the Cross References.

For high school and unit districts that do not wish to include the **Voting** subhead in policy 7:90, *Release During School Hours*, amend the second sentence of this paragraph as follows: "~~policy 7:90, Release During School Hours (the Election Code, 10 ILCS 5/7-42 and 5/17-15),~~" and delete 7:90, *Release During School Hours* from the Cross References.

⁵ See fn 3. In addition, 105 ILCS 5/10-20.73 (final citation pending), added by P.A. 102-471, requires a written policy related to absences and missed homework or classwork assignments as a result of or related to a student's pregnancy. It makes sense to apply such a policy to all students who are absent for a valid cause.

⁶ 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/, amended by P.A. 102-32 (child labor laws); 56 Ill.Admin.Code Part 250 (child labor regulations).

⁷ 105 ILCS 5/26-1. 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.

and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or combat-support postings.⁸

4. 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.⁹
5. A process to identify and track students who are truants, chronic or habitual truants, or truant minors as defined in 105 ILCS 5/26-2a.
6. A 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.¹⁰
7. The identification of supportive services that may be offered to truant, chronically truant, or chronically absent students, including parent-teacher conferences, student and/or family counseling, or information about community agency services.¹¹ See Board policy 6:110, *Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program*.

8. A process for the collection and review of chronic absence data and to:
 - a. Determine what systems of support and resources are needed to engage chronically absent students and their families, and
 - b. Encourage the habit of daily attendance and promote success.¹²

- ~~8.9.~~ Reasonable efforts to provide ongoing professional development to teachers, administrators, Board members, school resource officers, and staff on the appropriate and available supportive services for the promotion of student attendance and engagement.¹³

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

⁸ 105 ILCS 5/26-1, amended by P.A. 100-485. Such a student must be granted five days of excused absences in any school year and, at the board's discretion, may be granted additional excused absences to visit the student's parent/guardian. The student and his/her parent/guardian are responsible for obtaining assignments from the student's teacher prior to any period of excused absence and for ensuring that such assignments are completed by the student prior to his/her return to school from the excused absence period. *Id.*

⁹ This notification is required by 105 ILCS 5/26-3b.

¹⁰ 105 ILCS 5/22-90(a)(2) (final citation pending), added by P.A. 102-157; 23 Ill.Admin.Code §1.290(b)(2).

¹¹ *Id.* at (3) (final citation pending), added by P.A. 102-157; 23 Ill.Admin.Code §1.290(b)(3). 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) (ISBE report).

¹² 105 ILCS 5/22-90(a)(4) (final citation pending), added by P.A. 102-157, requires the incorporation of provisions relating to chronic absenteeism in accordance with 105 ILCS 5/26-18. 105 ILCS 5/26-18 requires districts to collect and review chronic absence data and determine what systems of support and resources are needed to engage chronically absent students and their families to encourage the habit of daily attendance and promote success. 105 ILCS 5/26-18(e). The review must include an analysis of chronic absence data from each attendance center. *Id.* Districts are also encouraged to: (1) provide a system of support to students at risk of reaching or exceeding chronic absence levels, i.e., those available through the Illinois Multi-tiered Systems of Support Network; and (2) make resources available to families, i.e., those available through ISBE's Family Engagement Framework, to support and engage students and their families. 105 ILCS 5/26-18(d). *Chronic absence* means "absences that total 10% or more of school days of the most recent school year, including absences with and without valid cause, as defined in Section 26-2a of this Code, and out-of-school suspensions for an enrolled student." 105 ILCS 5/26-18(a). In contrast, a *chronic or habitual truant* is "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." 105 ILCS 5/26-2a.

¹³ 105 ILCS 5/10-22.6(c-5), amended by P.A. 100-810.

Commented [MB1]: The second paragraph from this footnote was moved to footnote 12.

~~9-10.~~ 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. ¹⁴

~~10-11.~~ 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. ¹⁵

~~11-12.~~ An acknowledgement that no punitive action, including out-of-school suspensions, expulsions, or court action, shall be taken against a truant minor for his or her truancy unless available supportive services and other school resources have been provided to the student. ¹⁶

~~12-13.~~ 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. ¹⁷

[For high school and unit districts only]

~~13-14.~~ A process for a 17-year-old resident to participate in the District's various programs and resources for truants. ¹⁸ The student must provide documentation of his/her dropout status for

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

¹⁴ Use this alternative for districts in suburban Cook County: replace "Regional Office of Education" with "appropriate Intermediate Service Center."

¹⁵ 105 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 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. 65 ILCS 5/11-5-9. Local officials or authorities that enforce, prosecute, or adjudicate municipal ordinances adopted under 65 ILCS 5/11-5-9, or that work with school districts to address truancy problems, are designated as: (a) part of the juvenile justice system, established by the Juvenile Court Act of 1987, and (b) 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-API, *School Student Records*, for a sample procedure for release of such records to juvenile authorities.

¹⁶ 105 ILCS 5/26-12, amended by P.A. 100-825, prohibits punitive action "unless available supportive services and other school resources have been provided to the student." In addition, "a truant minor may not be expelled for nonattendance unless he or she has accrued 15 consecutive days of absences without valid cause and the student cannot be located by the school district or the school district has located the student but cannot, after exhausting all available support services, compel the student to return to school." *Id.*

¹⁷ 105 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."

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, see Funding & Disbursements subhead, p.2, at: www.isbe.net/Documents/Superintendent_Weekly_Message/message_082807.pdf, that ISBE is delaying implementing this statute based upon legal guidance from the U.S. Dept. of Education's Family Policy Compliance Office that its implementation would violate the federal Family Educational Rights and Privacy Act.

the previous six 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, *School Admissions and Student Transfers To and From Non-District Schools*.

44-15.A process for the temporary exclusion of a student 17 years of age or older for failing to meet minimum attendance standards according to provisions in State law. A parent/guardian has the right to appeal a decision to exclude a student. ¹⁹

LEGAL REF.: 105 ILCS 5/26-1 through 186.
705 ILCS 405/3-33.5, Juvenile Court Act of 1987.
23 Ill.Admin.Code §§1.242 and 1.290.

CROSS REF.: 5:100 (Staff Development Program), 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), 7:90 (Release During School Hours), 7:190 (Student Behavior), 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.

¹⁸ 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.

¹⁹ Optional, but provided in 105 ILCS 5/26-2(c)(3), amended by P.A. 100-825; ISBE's rule controls the appeal process. 23 Ill.Admin.Code §1.242.

21. First Reading of Revised Board of Education Policy 7:80 - Release Time for Religious Instruction/Observance

228

Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policy for Section 7:80 - Release Time for Religious Instruction/Observance. **See Attachment No. 19.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services *KJS*

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policy 7:80 - Release Time for Religious
Instruction/Observance

Reason for Board Consideration: The Board of Education approves updated Board Policy.


Action Necessary: That the Board of Education approve the updated Board Policy

Facts: In the continuing quest to update the District's Board Policies, attached is Board Policy 7:80 - Release Time for Religious Instruction/Observance, which was included as part of the November 2021 PRESS update review. This policy is updated in response to P.A. 102-406, prohibiting schools from requiring students excused for religious reasons to submit a written excuse after returning to school. The Legal References and footnotes are also updated to align with the change.

Cost: None

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy 7:80 - Release Time for Religious Instruction/Observance.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

Students

Release Time for Religious Instruction/Observance 1

A student shall be released from school, as an excused absence, because of religious reasons, including to observe a religious holiday, or for religious instruction, or because the student's religion forbids secular activity on a particular day(s) or time of day. The student's parent/guardian must give written notice to the Building Principal at least five calendar days before the student's anticipated absence(s).² ~~This notice shall satisfy the District's requirement for a written excuse when the student returns to school.~~

The Superintendent or designee shall develop and distribute to teachers appropriate procedures regarding student absences for religious reasons ~~and include a list of religious holidays on which a student shall be excused from school attendance,~~ including how teachers are notified of a student's impending absence, and the State law requirement that teachers provide the student with an equivalent opportunity to make up any examination, study, or work requirement.³

LEGAL REF.: ~~Religious Freedom Restoration Act, 775 ILCS 35/105 ILCS 5/26-1 and 5/26-2b.~~
775 ILCS 35/, Religious Freedom Restoration Act.

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

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

¹ State and federal laws control this policy's content. 105 ILCS 5/26-1(5), amended by P.A. 102-406, requires school boards to adopt a policy on student absences for religious holidays. See also 105 ILCS 5/26-2b, amended by P.A. 102-406. 105 ILCS 5/26-1(4) allows a child over 12 and less than 14 years of age to be absent from school while in attendance at confirmation classes. The sample policy does not contain these age or specific religious rite limitations in order to be consistent with First Amendment jurisprudence. According to the United States Supreme Court, a release time policy does not violate the Establishment Clause; it only accommodates a program of outside religious instruction. Zorach v. Clauson, 72 S.Ct. 679, 343 U.S. 306 (1952).

² Five days is the most prior notice that can be required. 105 ILCS 5/26-1(5). Schools cannot require students who are excused for religious reasons to submit a written excuse after returning to school. 105 ILCS 5/26-1, amended by P.A. 102-406.

³ 105 ILCS 5/26-1b and 26-2b, amended by P.A. 102-406.

22. First Reading of Revised Board of Education Policy 7:160 - Student Appearance

231

Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policy for Section 7:160 - Student Appearance. **See Attachment No. 20.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services *KS*

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policy 7:160 - Student Appearance

Reason for Board Consideration: The Board of Education approves updated Board Policy.


Action Necessary: That the Board of Education approve the updated Board Policy

Facts: In the continuing quest to update the District's Board Policies, attached is Board Policy 7:160 - Student Appearance, which was included as part of the November 2021 PRESS update review. This policy is updated in response to P.A. 102-360, which took effect on January 1, 2022 in response to Jett Hawkins Law. This law requires schools to provide proof of compliance for ISBE recognition pursuant to 105 ILCS 5/2-3.25. ISBE will have resources available on it's website by July 1, 2022. An option in the footnotes allows the board to expand the law's protections to include those listed in 7:10 - Equal Educational Opportunities, as well as instructions to ensure that the board aligns with text in PRESS policy 7:165 - School Uniforms (which our district has not adopted).

Cost: None

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy 7:160 - Student Appearance.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

Students

Student Appearance 1

A student's appearance, including dress and ~~hygiene~~grooming, must not disrupt the educational process, ~~interfere with the maintenance of a positive teaching/learning climate,~~ or compromise reasonable standards of health, ~~and safety,~~ and decency. The District does not prohibit hairstyles historically associated with race, ethnicity, or hair texture, including, but not limited to, protective hairstyles such as braids, locks, and twists.² Students who disrupt the educational process or compromise standards of health and safety must modify their appearance. Procedures for guiding student appearance, handling students who dress or groom inappropriately will be developed by the Superintendent or designee and included in the *Student Handbook(s)*.³

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

¹ Required by 105 ILCS 5/10-22.25b, amended by P.A. 102-360, eff. 1-1-22, for recognition under 105 ILCS 5/2-3.25 (*Jett Hawkins Law*). For districts to receive recognition from the Ill. State Board of Education (ISBE), they must provide assurances of compliance with the *Jett Hawkins Law*; this policy's second sentence does that. ISBE will have resource materials on its website by 7-1-22. State or federal law also controls this policy's content.

105 ILCS 5/10-22.25b, amended by P.A. 102-360, eff. 1-1-22, specifically authorizes a school board to adopt a school uniform or dress code policy. **There are hundreds of decisions on dress codes and uniform policies, making it imperative that a board contact its attorney for assistance in applying the law to specific fact situations.**

Generally, if a student's dress has sufficient communicative content, it will warrant First Amendment protection. If protected, a school's ability to regulate the dress will be analyzed according to *Tinker v. Des Moines Independent Sch. Dist.*, 89 S.Ct. 733 (1969) – it may be regulated only if it would substantially disrupt school operations or interfere with the right of others. In *Brandt v. Board of Educ. of City of Chicago*, 2006 WL 623651 (N.D.Ill.: 2006), *earlier decision*, 326 F.Supp.2d 916 (N.D.Ill., 2004), an Illinois federal court upheld a school's authority to punish students for wearing t-shirts portraying a one-handed boy; the court said: "A school need not tolerate student speech that is inconsistent with the school's basic educational mission even though the First Amendment would protect similar speech or expressive conduct outside of the school setting. This holding is suspect after the Seventh Circuit decision in *Zamecnik v. Indian Prairie Sch. Dist.* #204, 636 F.3d 874 (7th Cir. 2011). There the court held that the school district violated students' free speech rights by forbidding them from wearing during school hours a T-shirt saying "Be Happy, Not Gay."

A school may regulate student dress that does not have sufficient communicative content to receive free speech protection, provided the regulation is not arbitrary or excessive. Although many courts have ruled similarly with respect to grooming, e.g., hair length, and non-earring piercings, the Seventh Circuit, the federal appellate court that governs Illinois, has struck down school regulations governing hair length and earrings (See *Breen v. Kahl*, 419 F.2d 1034 (7th Cir.: 1969); *Crews v. Clones*, 432 F.2d 1259 (7th Cir.: 1970) (exclusion of long-haired student from class constituted denial of equal protection to male students); *Arnold v. Carpenter*, 459 F.2d 939 (7th Cir.: 1972); *Holsapple v. Woods*, 500 F.2d 49 (7th Cir.: 1974) (limitation of ruling recognized by *Hayden ex rel. v. Greensburg Community Sch. Corp.*, 743 F.3d 569 (7th Cir.: 2014) (recognizing school's right to set policy); *Olesen v. Board of Educ. Dist. 228*, 676 F.Supp. 820, 822 (N.D.Ill.1987) (male students have a liberty interest in wearing an earring to school). But see *Blau v. Fort Thomas Public Sch. Dist.*, 401 F.3d 381 (6th Cir. 2005) (upheld a Kentucky middle school's student dress code that prohibited visible body piercing other than ears). A school's uniform policy was upheld in *Alwood v. Clark and Belleville Township High Sch. Dist.* 201, 2005 WL 2001317 (S.D.Ill.: 2005).

² For boards that want to expand upon the law's requirement of race, ethnicity, or hair texture, amend this sentence as follows:

"The District does not prohibit hairstyles or hair textures historically associated with historically associated with race, ethnicity, or hair texture, or any other protected classes under Board policy 7:10, *Equal Educational Opportunities*, including, but not limited to, protective hairstyles such as braids, locks, and twists."

If the board chooses this expansion and also uses policy 7:165, *School Uniforms*, ensure that this option aligns with the option in 7:165's En 10.

³ A comprehensive Student Handbook can provide notice to parents and students of the school's conduct rules, extracurricular and athletic participation requirements, and other important information. The Handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board.

LEGAL REF.: 105 ILCS 5/2-3.25 and 5/10-22.25b.
Tinker v. Des Moines Independent School Dist., 89 S.Ct. 733393 U.S. 503
(1969).

CROSS REF.: 7:10 (Equal Educational Opportunities), 7:130 (Student Rights and Responsibilities), 7:165 (School Uniforms), 7:190 (Student Behavior)

DRAFT

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.
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. See also 7:190-E2, *Student Handbook Checklist*.

23. First Reading of Revised Board of Education Policy 7:180 - Prevention of and Response to Bullying, Intimidation, and Harassment

235

Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policy for Section 7:180 - Prevention of and Response to Bullying, Intimidation, and Harassment. **See Attachment No. 21.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services *KJS*

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policy 7:180 - Prevention of and Response to Bullying,
Intimidation, and Harassment

Reason for Board Consideration: The Board of Education approves updated Board Policy.

Action Necessary: That the Board of Education approve the updated Board Policy


Facts: In the continuing quest to update the District's Board Policies, attached is Board Policy 7:180 - Prevention of and Response to Bullying, Intimidation, and Harassment, which was included as part of the November 2021 PRESS update review. This policy is updated in response to several changes in the Illinois School due to:

- P.A. 102-241, adding "increase student accountability" to the list of restorative measures "if the incident of bullying is based on religion, race, ethnicity, or any other category that is identified in the Illinois Human Rights Act"
- P.A. 102-197, striking the word "guidance" from school counselors
- P.A. 102-558, addressing potential grants related to interventions to address bullying
- Guidance by ISBE related to reviews and re-evaluations regarding submissions of bullying prevention policies to the state board of education.
- Other continuous improvements are also updated to align with the changes.

Cost: None

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy 7:180 - Prevention of and Response to Bullying, Intimidation, and Harassment.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

Students

Prevention of and Response to Bullying, Intimidation, and Harassment 1

Bullying, intimidation, and harassment diminish a student's ability to learn and a school's ability to educate. Preventing students from engaging in these disruptive behaviors and providing all students equal access to a safe, non-hostile learning environment are important District goals.

Bullying on the basis of actual or perceived race, color, national origin, military status, unfavorable discharge status from the military service, sex, sexual orientation, gender identity, gender-related identity or expression, ancestry, age, religion, physical or mental disability, order of protection status, status of being homeless, or actual or potential marital or parental status, including pregnancy, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic is **prohibited** in each of the following situations: ²

1. During any school-sponsored education program or activity.
2. While in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities.
3. Through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment.
4. Through the transmission of information from a computer that is accessed at a nonschool-related location, activity, function, or program or from the use of technology or an electronic device that is not owned, leased, or used by the School District or school if the bullying causes a substantial disruption to the educational process or orderly operation of a school. This paragraph (item #4) applies only when a school administrator or teacher receives a report that bullying through this means has occurred; it does not require staff members to monitor any nonschool-related activity, function, or program.

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 bullying, monitor it, review and re-evaluate it, and file it with the Ill. State Board of Education (ISBE) every two years (see f/n 16, below). 105 ILCS 5/27-23.7, amended by P.A. 100-137. ~~Every two years, each district must review and re-evaluate this policy, make necessary and appropriate revisions, and file the updated policy with the Ill. State Board of Education (ISBE).~~ This sample policy's first paragraph allows a school board to consider its goals for preventing bullying and remedying its consequences; it may be amended.

In addition to a bullying prevention policy, all districts must have a policy on student behavior. 105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280. Boards must, in consultation with their parent-teacher advisory committees and other community-based organizations, address aggressive behavior, including bullying, in their student behavior policy. See 7:190, *Student Behavior*; 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

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. See f/n 107, below.

² This paragraph and its subparts 1-4 are from the bullying prevention statute. 105 ILCS 5/27-23.7(a); see also 775 ILCS 5/1-103 and 23 Ill.Admin.Code §1.240. The protected statuses are mandated by the bullying prevention statute; the list of protected statuses is identical to the list in 7:20, *Harassment of Students Prohibited*.

Definitions from 105 ILCS 5/27-23.7³

Bullying includes *cyberbullying* and means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

1. Placing the student or students in reasonable fear of harm to the student's or students' person or property;
2. Causing a substantially detrimental effect on the student's or students' physical or mental health;
3. Substantially interfering with the student's or students' academic performance; or
4. Substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school.

Bullying may take various forms, including without limitation one or more of the following: harassment, threats, intimidation, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying. This list is meant to be illustrative and non-exhaustive.

Cyberbullying means bullying through the use of technology or any electronic communication, including without limitation any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photo-electronic system, or photo-optical system, including without limitation electronic mail, Internet communications, instant messages, or facsimile communications. *Cyberbullying* includes the creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages if the creation or impersonation creates any of the effects enumerated in the definition of *bullying*. *Cyberbullying* also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the effects enumerated in the definition of *bullying*.

Restorative measures means a continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that: (i) are adapted to the particular needs of the school and community, (ii) contribute to maintaining school safety, (iii) protect the integrity of a positive and productive learning climate, (iv) teach students the personal and interpersonal skills they will need to be successful in school and society, (v) serve to build and restore relationships among students, families, schools, and communities, and (vi) reduce the likelihood of future disruption by balancing accountability with an understanding of students' behavioral health needs in order to keep students in school, and (vii) increase student accountability if the incident of bullying is based on religion, race, ethnicity, or any other category that is identified in the Ill. Human Rights Act.⁴

School personnel means persons employed by, on contract with, or who volunteer in a school district, including without limitation school and school district administrators, teachers, school guidance

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

³ All definitions are directly from 105 ILCS 5/27-23.7, amended by P.A. 100-137. See also resources from Cyberbullying Research Center, available at: cyberbullying.org/, and the U.S. School Safety Clearinghouse website at www.SchoolSafety.gov, discussed in ¶n 1, para. 3 of policy 4:170, *Safety*.

⁴ 105 ILCS 5/27-23.7(b), amended by P.A. 102-241.

counselors, school social workers, school counselors, school psychologists, school nurses, cafeteria workers, custodians, bus drivers, school resource officers, and security guards. ⁵

Bullying Prevention and Response Plan

The Superintendent or designee shall develop and maintain a bullying prevention and response plan that advances the District's goal of providing all students with a safe learning environment free of bullying and harassment. This plan must be consistent with the requirements listed below; each numbered requirement, 1-12, corresponds with the same number in the list of required policy components in 105 ILCS 5/27-23.7(b) 1-12. ⁶

1. The District uses the definition of *bullying* as provided in this policy. ⁷
2. Bullying is contrary to State law and the policy of this District. However, nothing in the District's bullying prevention and response plan is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment to the U.S. Constitution or under Section 3 of Article I of the Illinois Constitution.
3. Students are encouraged to immediately report bullying. A report may be made orally or in writing to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a Complaint Manager, or any staff member with whom the student is comfortable speaking.⁸ Anyone, including staff members and parents/guardians, who has information about actual or threatened bullying is encouraged to report it to the District named officials or any staff member. The District named officials and all staff members are available for help with a bully or to make a report about bullying.⁹ Anonymous reports are also accepted; however, this shall not be construed to permit formal disciplinary action solely on the basis of an anonymous report.

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

⁵ 105 ILCS 5/27-23.7(b), amended by P.A. 102-197.

⁶ As each numbered requirement, 1-12, corresponds with the same number in 5/27-23.7(b)1-12, there are no reference citations in footnotes. All non-statutory requirements, plus alternatives and optional provisions, are described in footnotes.

⁷ 105 ILCS 5/27-23.7(b), para. 3(1). See fn 4, above and ISBE's *School Policies for Bullying Prevention* at www.isbe.net/Documents/Bullying-Prev-Policy-Req.pdf.

A board may augment the School Code requirement by using this alternative:

Using the definition of *bullying* as provided in this policy, the Superintendent or designee shall emphasize to the school community that: (a) the District prohibits bullying, and (b) all students should conduct themselves with a proper regard for the rights and welfare of other students. This may include a process for commending or acknowledging students for demonstrating appropriate behavior.

⁸ The statute requires that the policy contain the email address and telephone number for the staff person(s) responsible for receiving bullying reports. Using the district Nondiscrimination Coordinator and Complaint Managers is consistent with 2:260, *Uniform Grievance Procedure*. While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored. A telephone number for making anonymous reports may also be added.

⁹ 105 ILCS 5/27-23.7(d), amended by P.A. 100-137, requires that "[s]chool personnel available for help with a bully or to make a report about bullying" be made known to parents/guardians, students, and school personnel.

Nondiscrimination Coordinator: ¹⁰

Name

Address

Email

Telephone

Complaint Managers:

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

4. Consistent with federal and State laws and rules governing student privacy rights, the Superintendent or designee shall promptly inform the parent(s)/guardian(s) of every student involved in an alleged incident of bullying and discuss, as appropriate, the availability of social work services, counseling, school psychological services, other interventions, and restorative measures. ¹¹
5. The Superintendent or designee shall promptly investigate and address reports of bullying, by, among other things:
 - a. Making all reasonable efforts to complete the investigation within 10 school days after the date the report of a bullying incident was received and taking into consideration additional relevant information received during the course of the investigation about the reported bullying incident.
 - b. Involving appropriate school support personnel and other staff persons with knowledge, experience, and training on bullying prevention, as deemed appropriate, in the investigation process.
 - c. Notifying the Building Principal or school administrator or designee of the reported incident of bullying as soon as possible after the report is received.

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

¹⁰ Sample policy 2:260. *Uniform Grievance Procedure*, states that a district's Nondiscrimination Coordinator also serves as its Title IX Coordinator. If the district uses a separate Title IX Coordinator who does not also serve as the Nondiscrimination Coordinator, list the Title IX and Nondiscrimination Coordinators' names separately in this policy. Best practice is that throughout the district's board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

¹¹ 105 ILCS 5/10-20.14 contains a similar requirement. See 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

- d. Consistent with federal and State laws and rules governing student privacy rights, providing parents/guardians of the students who are parties to the investigation information about the investigation and an opportunity to meet with the Building Principal or school administrator or his or her designee to discuss the investigation, the findings of the investigation, and the actions taken to address the reported incident of bullying.

The Superintendent or designee shall investigate whether a reported incident of bullying is within the permissible scope of the District's jurisdiction and shall require that the District provide the victim with information regarding services that are available within the District and community, such as counseling, support services, and other programs. ¹²

6. The Superintendent or designee shall use interventions to address bullying, that may include, but are not limited to, school social work services, restorative measures, social-emotional skill building, counseling, school psychological services, and community-based services. ¹³
7. A reprisal or retaliation against any person who reports an act of bullying is **prohibited**. Any person's act of reprisal or retaliation will be subject to disciplinary action, up to and including discharge with regard to employees, or suspension and/or expulsion¹⁴ with regard to students treated as bullying for purposes of determining any consequences or other appropriate remedial actions.
8. A student will not be punished for reporting bullying or supplying information, even if the District's investigation concludes that no bullying occurred. However, a person who is found to have knowingly making a falsely accused another of bullying, as a means of retaliation, as a means of bullying, or providing knowingly false information will be treated as either: (a) bullying, (b) student discipline up to and including suspension and/or expulsion, and/or (c) both (a) and (b) for purposes of determining any consequences or other appropriate remedial actions.
9. The District's bullying prevention and response plan ~~is~~ must be based on the engagement of a range of school stakeholders, including students and parents/guardians.
10. The Superintendent or designee shall post this policy on the District's website, if any, and include it in the student handbook, and, where applicable, post it where other policies, rules, and standards of conduct are currently posted. The policy must be distributed annually to parents/guardians, students, and school personnel (including new employees when hired), and must also be provided periodically throughout the school year to students and faculty. ¹⁵
11. Pursuant to State law and policy 2:240, Board Policy Development, the Board monitors this policy every two years by conducting a review and re-evaluation of this policy to make any necessary and appropriate revisions. The Superintendent or designee shall assist the Board

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

¹² This sentence contains requirements found in 105 ILCS 5/27-23.7(d).

¹³ A grant may be available from ISBE the III. State Board of Education for the promotion of a safe and healthy learning environment. 105 ILCS ~~5/2-3-176~~5/2-3.180 and 3.181, added by P.A. 101-438 and renumbered by P.A. 102-558. A list of grant funding opportunities is available at: www.isbe.net/Pages/Grants.aspx.

¹⁴ Consult the board attorney about the potential conflict of 105 ILCS 5/27-23.7(b)(7) (allowance of suspension and/or expulsion of students for reprisal/retaliation against reports of bullying) with 105 ILCS 5/10-22.6(b-20) (districts must resolve threats, address disruptions, and minimize the length (and implementation of) suspensions and expulsions to the greatest extent practicable). See 7:200, Suspension Procedures, at f/n 8 and policy 7:210, Expulsion Procedures, at f/ns 11 and 13.

¹⁵ 105 ILCS 5/27-23.7(b)(10), amended by P.A. 100-137.

with its re-evaluation and assessment of this policy's outcomes and effectiveness. Updates to this policy will reflect any necessary and appropriate revisions. This process shall include, without limitation: ¹⁶

- a. The frequency of victimization;
- b. Student, staff, and family observations of safety at a school;
- c. Identification of areas of a school where bullying occurs;
- d. The types of bullying utilized; and
- e. Bystander intervention or participation.

The evaluation process may use relevant data and information that the District already collects for other purposes. Acceptable documentation to satisfy the re-evaluated policy submission include one of the following:

- 1) An updated version of the policy with the amendment/modification date included in the reference portion of the policy;
- 2) If no revisions are deemed necessary, a copy of board minutes indicating that the policy was re-evaluated and no changes were deemed to be necessary, or a signed statement from the board; or
- 3) A signed statement from the Board President indicating that the Board re-evaluated the policy and no changes to it were necessary.

The Superintendent or designee must post the information developed as a result of the policy re-evaluation on the District's website, or if a website is not available, the information must be provided to school administrators, Board members, school personnel, parents/guardians, and students. Reviews and re-evaluations in years they are due must be submitted to ISBE by September 30.

12. The Superintendent or designee shall fully implement the Board policies, including without limitation, the following: ¹⁷

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

¹⁶ 105 ILCS 5/27-23.7. See the ISBE guidance document that is cited in f/n 7, above. In 2020, ISBE extended submission to 12-30 in 2020.

¹⁷ The statute requires that the bullying policy *be consistent with other board policies*. The list of policies may be deleted and the following alternative used: "12. The District's bullying prevention plan must be consistent with other Board policies." If a policy list is included, be sure the referenced policies were adopted locally and amend the list accordingly.

The bullying statute does not identify staff member duties regarding the prevention of or response to student bullying. The following optional provision addresses staff member responsibilities and may be added as a new paragraph 13:

13. The Superintendent or designee shall fully inform staff members of the District's goal to prevent students from engaging in bullying and the measures being used to accomplish it. This includes each of the following:
 - a. Communicating the District's expectation and State law requirement that teachers and other certificated or licensed employees maintain discipline.
 - b. Establishing the expectation that staff members: (1) intervene immediately to stop a bullying incident that they witness or immediately contact building security and/or law enforcement if the incident involves a weapon or other illegal activity, (2) report bullying, whether they witness it or not, to an administrator, and (3) inform the administration of locations on school grounds where additional supervision or monitoring may be needed to prevent bullying.
 - c. Where appropriate in the staff development program, providing strategies to staff members to effectively prevent bullying and intervene when it occurs.
 - d. Establishing a process for staff members to fulfill their obligation to report alleged acts of bullying.

- a. 2:260, *Uniform Grievance Procedure*. A student may use this policy to complain about bullying.
- b. 2:265, *Title IX Sexual Harassment Grievance Procedure*. Any person may use this policy to complain about sexual harassment in violation of Title IX of the Education Amendments of 1972.
- c. 6:60, *Curriculum Content*. Bullying prevention and character instruction is provided in all grades in accordance with State law.
- d. 6:65, *Student Social and Emotional Development*. Student social and emotional development is incorporated into the District's educational program as required by State law.
- e. 6:235, *Access to Electronic Networks*. This policy states that the use of the District's electronic networks is limited to: (1) support of education and/or research, or (2) a legitimate business use.
- f. 7:20, *Harassment of Students Prohibited*. This policy prohibits any person from harassing, intimidating, or bullying a student based on an identified actual or perceived characteristic (the list of characteristics in 7:20 is the same as the list in this policy).
- g. 7:185, *Teen Dating Violence Prohibited*. This policy prohibits teen dating violence on school property, at school-sponsored activities, and in vehicles used for school-provided transportation.
- h. 7:190, *Student Behavior*. This policy prohibits, and provides consequences for, hazing, bullying, or other aggressive behaviors, or urging other students to engage in such conduct.
- i. 7:310, *Restrictions on Publications; Elementary Schools*, and 7:315, *Restrictions on Publications; High Schools*. These policies prohibit students from and provide consequences for: (1) accessing and/or distributing at school any written, printed, or electronic material, including material from the Internet, that will cause substantial disruption of the proper and orderly operation and discipline of the school or school activities, and (2) creating and/or distributing written, printed, or electronic material, including photographic material and blogs, that causes substantial disruption to school operations or interferes with the rights of other students or staff members. ¹⁸

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

¹⁸ For elementary districts, delete: ~~and 7:315, *Restrictions on Publications; High Schools*~~ and delete the Cross Reference to 7:315, *Restrictions on Publications; High Schools*. For high school districts, delete ~~7:310, *Restrictions on Publications; Elementary Schools*~~, and delete the Cross Reference to 7:310, *Restrictions on Publications; Elementary Schools*. In both cases, revise the beginning of the sentence to read: "These policies prohibits students from and provides."

LEGAL REF.: 105 ILCS 5/10-20.14, 5/10-22.6(b-20), 5/24-24, and 5/27-23.7.
405 ILCS 49/, Children's Mental Health Act.
775 ILCS 5/1-103, Ill. Human Rights Act.
~~105 ILCS 5/10-20.14, 5/24-24, and 5/27-23.7.~~
23 Ill.Admin.Code §1.240 and §1.280.

CROSS REF.: 2:240 (Board Policy Development), 2:260 (Uniform Grievance Procedure), 2:265 (Title IX Sexual Harassment Grievance Procedure), 4:170 (Safety), 5:230 (Maintaining Student Discipline), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 6:235 (Access to Electronic Networks), 7:20 (Harassment of Students Prohibited), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:285 (Food Allergy Management Program), 7:310 (Restrictions on Publications; Elementary Schools), 7:315 (Restrictions on Publications; High Schools)

DRAFT

24. First Reading of Revised Board of Education Policy 7:290 - Suicide and Depression Awareness and Prevention

245

Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policy for Section 7:290 - Suicide and Depression Awareness and Prevention. **See Attachment No. 22.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services *KJS*

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policy 7:290 - Suicide and Depression Awareness and Prevention

Reason for Board Consideration: The Board of Education approves updated Board Policy.

Action Necessary: That the Board of Education approve the updated Board Policy

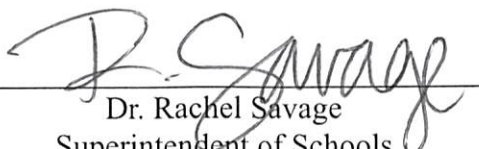
Facts: In the continuing quest to update the District's Board Policies, attached is Board Policy 7:290 - Suicide and Depression Awareness and Prevention, which was included as part of the November 2021 PRESS update review. This policy is updated in response to several changes in the Illinois School due to:

- P.A. 102-267, adding seven categories of students who may be at increased risk of suicide
- P.A.s 102-134 and 102-416, requiring district-issued ID cards for students, and information on districts websites, and districts to insert either the Safe2Help Illinois Helpline or a local suicide prevention hotline on ID cards, contacts to identify each helpline that may be contacted through text messaging, and the same information in students handbooks and planners (if districts or it's schools distribute custom printed student planners in grades 6-12)

Cost: None

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy 7:290 - Suicide and Depression Awareness and Prevention.

Approved for Submission to the Board of Education


Dr. Rachel Savage
Superintendent of Schools

Students

Suicide and Depression Awareness and Prevention 1

Youth suicide impacts the safety of the school environment. It also affects the school community, diminishing the ability of surviving students to learn and the school's ability to educate. Suicide and depression awareness and prevention are important Board goals.

Suicide and Depression Awareness and Prevention Program

The Superintendent or designee shall develop, implement, and maintain a suicide and depression awareness and prevention program (Program) that advances the Board's goals of increasing awareness and prevention of depression and suicide. This program must be consistent with the requirements of *Ann Marie's Law* listed below; each listed requirement, 1-6, corresponds with the list of required policy components in the School Code Section 5/2-3.166(c)(2)-(7). The Program shall include:

1. Protocols for administering youth suicide awareness and prevention education to students and staff.²
 - a. For students, implementation will incorporate Board policy 6:60, *Curriculum Content*, which implements 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7 (requiring education for students to develop a sound mind and a healthy body).
 - b. For staff, implementation will incorporate Board policy 5:100, *Staff Development Program*, and teacher's institutes under 105 ILCS 5/3-14.8 (requiring coverage of the warning signs of suicidal behavior).
2. Procedures for methods of suicide prevention with the goal of early identification and referral of students possibly at risk of suicide.³ Implementation will incorporate:

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

¹ A suicide awareness and prevention policy is required by 105 ILCS 5/2-3.166(c). The first sentence of this policy is required by 105 ILCS 5/2-3.166(c)(1).

This policy contains an item on which collective bargaining may be required. See 105 ILCS 5/10-22.24b. 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 Required by 105 ILCS 5/2-3.166(c)(2). While this law is titled Youth Suicide Awareness and Prevention, it requires the policy to include protocols for administering youth suicide awareness and prevention education to *staff* and students.

For student protocols, see 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7.

For staff protocols, see 105 ILCS 5/3-14.8, which requires the regional superintendents to cover the warning signs of suicidal behavior in teacher's institutes. In suburban Cook County, an Intermediate Service Center will perform the responsibilities that are performed in other locations by the regional superintendent. P.A. 96-893.

³ Required by 105 ILCS 5/2-3.166(c)(3). This policy adds *with the goal of* and *possibly* to modify the statute's use of "at risk of suicide." *With the goal of* acknowledges that identifying every student at risk of suicide is impossible. *Possibly* is added to inform the public that these identifications are not definitive. School staff members are not licensed medical professionals who are fully trained to make definitive determinations about whether a student is at risk of suicide, and parents/guardians should not take any referral under this requirement as such.

- a. The training required by 105 ILCS 5/10-22.39 for licensed school personnel and administrators who work with students to identify the warning signs of suicidal behavior in youth along with appropriate intervention and referral techniques, including methods of prevention, procedures for early identification, and referral of students at risk of suicide; and
 - b. Ill. State Board of Education (ISBE)-recommended guidelines and educational materials for staff training and professional development, along with ISBE-recommended resources for students containing age-appropriate educational materials on youth suicide and awareness, if available pursuant to *Ann Marie's Law* on ISBE's website.
3. Methods of intervention, including procedures that address an emotional or mental health safety plan for use during the school day and at school-sponsored events for a student identified as being at increased risk of suicide including those students who: (A) suffer from a mental health disorder; (B) suffer from a substance abuse disorder; (C) engage in self-harm or have previously attempted suicide; (D) reside in an out-of-home placement; (E) are experiencing homelessness; (F) are lesbian, gay, bisexual, transgender, or questioning (LGBTQ); (G) are bereaved by suicide; or (H) have a medical condition or certain types of disabilities. Implementation will incorporate paragraph number 2, above, along with Board policies:⁴
- a. ~~Board policy 6:65, *Student Social and Emotional Development*~~, implementing the goals and benchmarks of the Ill. Learning Standards and 405 ILCS 49/15(b) (requiring student social and emotional development in the District's educational program);
 - b. 6:120, *Education of Children with Disabilities*, implementing special education requirements for the District;
 - c. 6:140, *Education of Homeless Children*, implementing provision of District services to students who are homeless;
 - ~~b.d. Board policy 6:270, *Guidance and Counseling Program*~~, implementing guidance and counseling program(s) for students, and 105 ILCS 5/10-22.24a and 22.24b, which allow a qualified guidance specialist or any licensed staff member to provide school counseling services;
 - e. 7:10, *Equal Educational Opportunities*, and its implementing administrative procedure and exhibit, implementing supports for equal educational opportunities for students who are LGBTQ;

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

105 ILCS 5/10-22.39, amended by P.A.s ~~100-903~~ and 101-350, requires licensed school personnel and administrators who work with students in kindergarten through grade 12 to be trained to identify the warning signs of suicidal behavior in youth along with appropriate intervention and referral techniques. While very little guidance is available for students in grades 6 and below, *Ann Marie's Law* directs the Ill. State Board of Education (ISBE) to compile, develop and post these items on its website. Districts may use the Ill. Mental Health training program, established under the Ill. Mental Health First Aid Training Act, to provide the training for this in-service requirement. See f/n 4 in policy 5:100, *Staff Development Program*, for further discussion of this training requirement.

Ann Marie's Law requires ISBE to develop and recommend materials. See the discussion in f/n 7, below, on ISBE-recommended materials.

⁴ Required by 105 ILCS 5/2-3.166(c)(4), amended by P.A. 102-267, eff. 7-1-22. For further discussion of 105 ILCS 5/10-22.24b, see f/n 2 in policy 6:270, *Guidance and Counseling Program*. This policy adds "for use during the school day and at school-sponsored events" to inform the public about the limitations concerning what schools can realistically provide students and their parent(s)/guardian(s). See the discussion in f/n 3 regarding the addition of the word *possibly*.

- f. 7:50, School Admissions and Student Transfers To and From Non-District Schools, implementing State law requirements related to students who are in foster care;
- e.g. ~~Board policy~~ 7:250, *Student Support Services*, implementing the Children's Mental Health Act of 2003, 405 ILCS 49/ (requiring protocols for responding to students with social, emotional, or mental health issues that impact learning ability); and
- ~~e.h.~~ State and/or federal resources that address emotional or mental health safety plans for students who are possibly at an increased risk for suicide, if available on the ISBE's website pursuant to *Ann Marie's Law*.
4. Methods of responding to a student or staff suicide or suicide attempt. Implementation of this requirement shall incorporate building-level Student Support Committee(s) established through Board policy 7:250, *Student Support Services*. 5
 5. Reporting procedures. Implementation of this requirement shall incorporate Board policy 6:270, *Guidance and Counseling Program*, and Board policy 7:250, *Student Support Services*, in addition to other State and/or federal resources that address reporting procedures.⁶
 6. A process to incorporate ISBE-recommended resources⁷ on youth suicide awareness and prevention programs, including current contact information for such programs in the District's Suicide and Depression Awareness and Prevention Program. 8

Illinois Suicide Prevention Strategic Planning Committee

The Superintendent or designee shall attempt to develop a relationship between the District and the Illinois Suicide Prevention Strategic Planning Committee, the Illinois Suicide Prevention Coalition Alliance, and/or a community mental health agency. The purpose of the relationship is to discuss how to incorporate the goals and objectives of the Illinois Suicide Prevention Strategic Plan into the District's Suicide Prevention and Depression Awareness Program.⁹

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

⁵ Required by 105 ILCS 5/2-3.166(c)(5). See 7:250-AP2, *Protocol for Responding to Students with Social, Emotional, or Mental Health Needs* for information about building-level Student Support Committees. When sharing information from therapists and counselors, these committees are required to follow the Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/, and the Children's Mental Health Act of 2003, 405 ILCS 49/.

⁶ Required by 105 ILCS 5/2-3.166(c)(6).

⁷ 105 ILCS 5/2-3.166(b)(2)(B), directs ISBE to "compile, develop, and post on its publicly accessible Internet website both of the following, which may include materials already publicly available: (A) [r]ecommended guidelines and educational materials for training and professional development, and (B) [r]ecommended resources and age-appropriate educational materials on youth suicide awareness and prevention."

ISBE has created the *Illinois Youth Suicide Prevention Toolkit: A Reference for Administrators, Counselors, Teachers, and Staff*, at: www.isbe.net/Documents/Suicide-Prevention-Procedures.pdf, as well as listing other resources at: www.isbe.net/Pages/Suicide-Prevention.aspx.

⁸ Required by 105 ILCS 5/2-3.166(c)(7).

⁹ Optional. ~~The status of the Illinois Suicide Prevention Strategic Plan is unclear in light of Ann Marie's Law. However, the plan may be found at: www.dph.illinois.gov/sites/default/files/publications/011519ohpm-suicide-prevention-plan-2018-2021.pdf, www.idph.state.il.us/about/chronic/Suicide-Prevention-Plan-Jan-08.pdf. Its goals and objectives reflect the input of public and private organizations and stakeholders that are concerned with mental health. It is designed to reduce suicide through a positive public health approach. The target dates for implementing these goals and objectives started in 2010 with target dates of completion in 2012. See also the Suicide Prevention Resource Center and its Illinois page at www.sprc.org/states/illinois for more information on which goals in the Illinois Suicide Prevention Strategic Plan have been implemented. The Suicide Prevention Resource Center also had an awareness public prevention pilot program titled "It Only Takes One," available at: www.itonlytakesone.org/.~~

Monitoring ¹⁰

The Board will review and update this policy pursuant to *Ann Marie's Law* and Board policy 2:240, *Board Policy Development*.

Information to Staff, Parents/Guardians, and Students

The Superintendent shall inform each school district employee about this policy and ensure its posting on the District's website.¹¹ The Superintendent or designee shall provide a copy of this policy to the parent or legal guardian of each student enrolled in the District.¹² Student identification (ID) cards, the District's website, and student handbooks and planners will contain the support information as required by State law. ¹³

Implementation

This policy shall be implemented in a manner consistent with State and federal laws, including the Children's Mental Health Act of 2003, 405 ILCS 49/, Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/, and the Individuals with Disabilities Education Act, 42 U.S.C. §12101 *et seq.*

The District, Board, and its staff are protected from liability by the Local Governmental and Governmental Employees Tort Immunity Act. Services provided pursuant to this policy: (1) do not replace the care of a physician licensed to practice medicine in all of its branches or a licensed medical practitioner or professional trained in suicide prevention, assessments and counseling services, (2) are strictly limited to the available resources within the District, (3) do not extend

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¹⁰ Required by 105 ILCS 5/2-3.166(d).

¹¹ *Id.* See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Consult the board attorney about whether a signature is required to prove compliance with the law's specific requirement that *each school district employee and each student enrolled in the District* are informed of and/or provided a copy of the policy.

¹² *Id.* Consult the board attorney about placing the policy in the student handbook instead of and/or in addition to providing a hard copy to each student's parent/guardian. Members of the Ill. Principals Assoc. (IPA) may subscribe to the IPA's Model Student Handbook Service, which are aligned with IASB's policy services. For more information, see: www.ilprincipals.org/resources/model-student-handbook.

¹³ 105 ILCS 5/10-20.73 (final citation pending), added by P.A. 102-134 (district-issued ID cards for students, and information on districts' websites); 105 ILCS 5/10-20.75 (final citation pending), added by P.A. 102-416 (districts must insert either the Safe2Help Illinois helpline or a local suicide prevention hotline on ID card, contact to identify each helpline that may be contacted through text messaging, and include the same in student handbooks and planners (if a student planner is custom printed by a district or its schools for distribution to students in any of grades 6 through 12)).

beyond the school day and/or school-sponsored events, and (4) cannot guarantee or ensure the safety of a student or the student body. ¹⁴

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

¹⁴ Consult the board attorney for guidance concerning liability in this area. Except for cases of willful and wanton conduct, the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/, likely protects districts from liability for failure to properly identify and/or respond to a student's mental health issue that results in suicide. See 745 ILCS 10/3-108 and Grant v. Board of Trustees of Valley View Sch. Dist. No. 365-U, 286 Ill.App.3d. 642 (3rd Dist. 1997). However, attorneys have concerns that failing to inform parents/guardians that services required under *Ann Marie's Law* are limited may open districts to potential litigation if services provided under the policy fail or are deemed inadequate. Every situation is fact specific and the issues require careful evaluation. A disclaimer, such as the one presented here, may not be sufficient. A district may take several actions, after discussion with its board attorney, to minimize liability, such as adding limiting phrases (see discussions in f/n's 3 & 4) and ensuring other policies are followed. Ultimately, the best way to minimize liability is to be sure that the district's insurance policies cover the training and other requirements under *Ann Marie's Law*.

In addition to the Tort Immunity Act, school officials and districts may also be entitled to qualified immunity in civil rights lawsuits that seek to hold them liable for a suicide. See Sanford v. Stiles, 456 F.3d 298 (3d Cir. 2006); Martin v. Shawano-Gresham Sch. Dist., 295 F.3d 701 (7th Cir. 2002); Armijo v. Wagon Mount Pub. Schools, 159 F.3d 1253 (10th Cir. 1998). Yet, recent trends in student-on-student harassment cases are emerging where parents whose children die of suicide allege that a school's failure to properly identify or respond to the child's mental health issues was a contributing cause for the suicide.

In these cases, the parents ask courts to apply Davis v. Monroe County Board of Education, 526 U.S. 629 (1999), to *Section 504* cases. Under the *Davis standard*, parents must prove that: (1) their child was an individual with a disability; (2) their child was harassed based upon his or her disability; (3) the harassment was sufficiently severe or pervasive that it altered the condition of the child's education and created an abusive educational environment; (4) the school district knew about the harassment; and (5) the school district was deliberately indifferent to the harassment.

While not precedential in Illinois, several cases illustrate the uncertainty of a school district's liability in the emerging area of suicide prevention liability and/or failure to properly respond to a student's mental health issues and may indicate a trend toward courts allowing juries to determine a district's liability: Armijo v. Wagon Mount Pub. Schools, 159 F.3d 1253 (10th Cir. 1998) (denying summary judgment to two individual defendant district employees based on a state-created danger theory and as to all defendant employees based on a special relationship theory); Estate of Barnwell ex rel. Barnwell v. Watson, 44 Supp.3d 859 (E.D. Ark. 2014) (allowing plaintiff parents to move forward in litigation alleging that school district's *Section 504* failures contributed to their son's suicide, but summary judgment in favor of school district eventually granted); and Walsh v. Tehachapi Unified Sch. Dist., 997 F.Supp.2d 1071 (E.D. Ca. 2014) (denying summary judgment because the school district's conduct may have been the proximate cause of the student suffering an uncontrollable impulse to commit suicide). But see Estate of Lance v. Lewisville Independent Sch. Dist., 743 F.3d 982 (5th Cir. 2014) (finding in favor of the school district because the claimed special relationship theory and state-created danger theories were not actionable).

LEGAL REF.: 42 U.S.C. § 1201 et seq. Individuals with Disabilities Education Act.
105 ILCS 5/2-3.166, 105 ILCS 5/2-3.139, 5/3-14.8, 5/10-20.73 (final citation pending), 5/10-22.24a, 5/10-22.24b, 5/10-22.39, 5/10-20.75 (final citation pending), 5/14-1.01 et seq., 5/14-7.02, and 5/14-7.02b, 5/27-7.
405 ILCS 49, Children’s Mental Health Act of 2003.
740 ILCS 110/, Mental Health and Developmental Disabilities Confidentiality Act.
745 ILCS 10/, Local Governmental and Governmental Tort Immunity Act.

CROSS REF.: 2:240 (Board Policy Development), 5:100 (Staff Development Program), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 6:120 (Education of Children with Disabilities), 6:270 (Guidance and Counseling Program), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:250 (Student Support Services)

DRAFT

25. First Reading of Revised Board of Education Policy 7:315 - Restrictions on Publications; High Schools


253

Recommended Motion: that the Board of Education accept for first reading the revised Board of Education Policy for Section 7:315 - Restrictions on Publications; High Schools. **See Attachment No. 23.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policy 7:315 - Restrictions on Publications; High Schools 

Reason for Board Consideration: The Board of Education approves updated Board Policy.

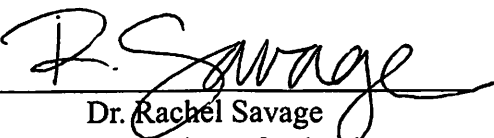
Action Necessary: That the Board of Education approve the updated Board Policy

Facts: In the continuing quest to update the District's Board Policies, attached is Board Policy 7:315 - Restrictions on Publications; High Schools, which was included as part of the November 2021 PRESS update review. This policy is updated in response to feedback from the Student Law Press Center and from the Illinois Council of School Attorneys. New options for boards who want to allow greater flexibility for student journalists and/or to require student media advisers to provide written justification to students when limiting their material for the reasons permitted by the Speech Rights of Student Journalists Act. A new option for listing of policies that may not be violated is found in footnote #8. Other continuous improvements are aligned with this updated policy.

Cost: None

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policy 7:315 - Restrictions on Publications; High Schools.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

Students

Restrictions on Publications: High Schools 1

[For high school or unit districts only]

Definitions 2

Libel means the willful or negligent publication of provably false and unprivileged statements of fact that do demonstrable harm to a living person's reputation.

Obscene means lewd; impure; indecent; calculated to shock the moral sense of humans by a disregard of chastity or modesty. *Objectionable* or *offensive* to accepted standards of decency.

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.

Slander means the speaking of false statements of fact that seriously harm a living person's reputation.

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

School-sponsored publications, productions, and websites are governed by the Speech Rights of Student Journalists Act and the School Board policies, and student journalists are responsible for determining the news, opinion, feature, and advertising content of those publications, productions, and websites.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.

² Speech Rights of Student Journalists Act, 105 ILCS 80/5, added by P.A. 09-678. See also *Black's Law Dictionary*, 11th ed. 2019.

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 reasonably regulate student expression in high school-sponsored publications for education-related reasons under *Hazelwood Sch. Dist. #12 v. Kuhlmeier*, 484 U.S. 260, 48 S.Ct. 562 (1988). See the last sentence in ¶n 64. below.

Student journalists must: ⁵

1. Make decisions based upon news value and guided by the Code of Ethics provided by the Society of Professional Journalists, National Scholastic Press Association, Journalism Education Association, or other relevant group;
2. Produce media based upon professional standards of accuracy, objectivity, and fairness;
3. Review material to improve sentence structure, grammar, spelling, and punctuation;
4. Check and verify all facts and verify the accuracy of all quotations;
5. In the use of personal opinions, editorial statements, and/or letters to the editor, provide opportunity and space for the expression of differing opinions within the same media to align with the District's media literacy curriculum mandate in 105 ILCS 5/27-20.08; and
6. Include an author's name with any personal opinions and editorial statements, if appropriate.

Student journalists may not create, produce, or distribute school-sponsored media that: ⁶

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;⁷ or
4. Incites students to:⁸

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

⁵ Consult the board attorney about text that balances the student journalists' rights to have control of their media publications with the board's interests in (a) ensuring differing opinions are published, (b) this Act, and (c) providing student journalists opportunities to apply the upcoming Illinois media literacy curriculum mandates.

Number 5 in the list is intended to align with the media literacy curriculum mandate for students in grades 9 through 12 that starts in the fall of 2022 and is listed at 105 ILCS 5/27-20.08, added by P.A. 102-55, and sample policy 6:60, Curriculum Content. Media literacy means the ability to access, analyze, evaluate, create, and communicate using a variety of objective forms, including, but not limited to, print, visual, audio, interactive, and digital texts. Id. Media literacy instruction must include a component on social responsibility and civics that includes "[s]uggesting a plan of action in the class, school, or community to engage others in a respectful, thoughtful, and inclusive dialogue over a specific issue using facts and reason." Providing opportunity and space for expression of differing opinions in media aligns with and promotes this inclusive dialog.

For boards that provide student journalists more flexibility, make the following three edits: (1) replace "must" with "shall strive to," (2) amend number 5 to read: "In the use of personal opinions, editorial statements, and/or letters to the editor, determine the need to provide opportunity and space for the expression of differing opinions within the same media to align with the District's media literacy curriculum mandate in 105 ILCS 5/27-20.08", and (3) delete number 6.

⁶ 105 ILCS 80/15, added by P.A. 99-678. A school board may retain control of material in student publications that falls within the listed exceptions. 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.

⁷ 105 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 additional text is to underscore that Constitutional rights of third parties are included under the exception of State and federal law.

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 fn 1, above.

- a. Commit an unlawful act;
- b. Violate 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 shall comply with the ethics and rules of responsible journalism. The District will not engage in prior restraint of material prepared by student journalists for school-sponsored media, unless the material fits into numbers one of the four prohibited categories listed (1) through four (4) above, in which case will not be tolerated and school official the Superintendent or designee and/or student media advisers may review, edit, and/or delete such media material before publication or distribution of the media.⁹

Commented [KAS1]: This sentence is now addressed above.

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.

Commented [DJ2]: These statements are now accounted for above, following the I/n 5 option.

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.¹⁰

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

⁸ 105 ILCS 80/15, added by P.A. 99-678 broadly allows school boards to limit speech that would incite violation of any policy. This policy language follows the statute. Policies must also include a assessment on those that violate a district's educational mission and philosophy and social appropriateness language for student body's age(s)/maturity. 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 may be added to (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 I/n 1, above.

While 105 ILCS 80/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 to provide additional text to the word-for-word statutory language in their policies, add to item 4.b.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*.

⁹ 105 ILCS 80/10 requires school officials to show justification without undue delay before limiting student expression. For boards that want the student media advisor to provide student journalists with written justification prior to limiting materials, insert the following sentence to end the paragraph:

In such cases, the student media adviser will promptly provide the student journalist with a written justification prior to limiting the material.

¹⁰ 105 ILCS 80/20, added by P.A. 99-678.

Non-School Sponsored Publications Accessed or Distributed On Campus ¹¹

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, digital files, MP3 files, flash memory, etc.), or combinations of these whether off-line (e.g., a printed book, digital files, 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., text data or voice messages delivered by cell phones, tablets, and other hand-held devices). ¹²

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; ¹³
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; ¹⁴
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

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¹¹ 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 City Community Unit Sch. Dist. No. 118, 9 F.3d 1295 (7th Cir. 1993).

¹² 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.

¹³ 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).

¹⁴ 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 Sch. 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 (9th 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 Sch. Dist. #121, 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*).

indecent and vulgar language, or *sexting* as defined by School Board policy and Student Handbooks; ¹⁵

4. Is reasonably viewed as promoting illegal drug use; ¹⁶
5. Is distributed in kindergarten through eighth grade and is primarily prepared by non-students, unless it is being used for school purposes. However, material from outside sources or the citation to such sources may be allowed, as long as the material to be distributed or accessed is primarily prepared by students; ¹⁷ or
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. ¹⁸

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¹⁵ 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 ILCS 405/3-40 (Juvenile Court Act purposes), and *non-consensual dissemination of private sexual images* as defined by 720 ILCS 5/11-23.5 (Criminal Code of 2012 purposes). 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 these statutory terms and definitions.

¹⁶ Morse v. Frederick, 551 U.S. 393 (2007).

¹⁷ 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 City Community Unit School Dist. No. 118, 9 F.3d 1295 (7th Cir. 1993); Leal v. Everett Public Schools, 88 F.Supp.3d 1220 (2015 WL 728651 (W.D. Wash., 2015)).

¹⁸ 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).

Non-School Sponsored Publications Accessed or Distributed Off-Campus ¹⁹

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 ²⁰

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 5/27-20.08 and 5/27-23.7.
~~Speech Rights of Student Journalists Act~~-105 ILCS 80/, *Speech Rights of Student Journalists Act*.
Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 (1969).
Hazelwood v. Kuhlmeier, 408 S.Ct. 562/484 U.S. 260 (1988).
Morse v. Frederick, 551 U.S. 393 (2007).
Hedges v. Wauconda Cmty. Community Unit Sch. Dist. No. 118, 9 F.3d 1295 (7th Cir. 1993).
~~*Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (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 Schools Provided by Non-School Related Entities)

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

¹⁹ 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 Behavior*). For example, see:

J.S. v. Blue Mountain Sch. Dist., 650 F.3d 915 (3rd Cir. 2011), 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 ¶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.


²⁰ 105 ILCS 5/27-23.7.

26. First Reading of Revised Board of Education Policies for Section 8 Community Relations

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Recommended Motion: that the Board of Education accept for first reading revised Board of Education Policies for Community Relations Sections 8:70 - Accommodating Individuals with Disabilities, and 8:100 - Relations with Other Organizations and Agencies. **See Attachment No. 24.**

TO: Members of the Board of Education

FROM: Kristin Sanders, Assistant Superintendent for Pupil/Personnel and
Director of Special Education Services 

DATE: January 20, 2022

SUBJECT: Approve Updated Board Policies for Section 8, School Community Relations

Reason for Board Consideration: The Board of Education approves updated Board Policy.

Action Necessary: That the Board of Education approve the updated Board Policies.


Facts: In the continuing quest to update the District's Board Policies, attached are a portion of Section 8 with suggested changes based on PRESS recommendations. Administration is requesting the Board accept updates for Section 8, School Community Relations, which are minor in stylistics, footnote or reference changes. Recall the underlined text represents suggested new additions; whereas the ~~strike through~~ text represents suggested deletions.

Based on PRESS recommendation and administration review, it is the recommendation of administration that the Board of Education accept for first reading revised Board of Education Policies for School Board Sections 8:70, Accommodating Individuals with Disabilities, and 8:100 Relations with Other Organizations and Agencies.

Cost: None.

Recommended Action: That the Board of Education accept for first reading the revised Board of Education Policies for School Board Sections 8:70, Accommodating Individuals with Disabilities, and 8:100 Relations with Other Organizations and Agencies.

Approved for Submission to the Board of Education



Dr. Rachel Savage
Superintendent of Schools

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

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 of 1990 (ADA), 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 U.S. Dept. 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.

See *f/n 42* in policy 2:260, *Uniform Grievance Procedure, for a discussion of website accessibility requirements under Title II and the School Code*. While the U.S. Dept. of Justice (DOJ) under President Obama's Administration proposed regulations for public accommodations of websites (set to be final in 2018), President Trump signed an executive order in early 2017 entitled *Reducing Regulation and Controlling Regulatory Costs*, which makes it highly unlikely that the DOJ will issue any website regulations during the Trump Administration's tenure. Consult the board attorney about procedures for the superintendent to perform his or her duties outlined below in *f/ns 6 and 8*.

The Ill. Environmental Barriers Act (410 ILCS 25/) and the Ill. Accessibility Code (71 Ill.Admin.Code Part 400) ensure that are "intended to establish minimum scoping and technical design requirements to ensure that the building environment "all applicable buildings and facilities in the State of Illinois, are so is 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 all, including individuals with disabilities environmentally limited persons." 71 Ill.Admin.Code §400.110(a). Note: The Ill. Environmental Barriers Act, as amended by P.A. 99-582 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 5/10-20.51. 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.

Each service, program, website, 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 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 three 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

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

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.

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 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 a 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.

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 5/10-20.51.
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 Building Programs)

DRAFT

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

CROSS REF.: 1:20 (District Organization, Operations, and Cooperative Agreements), 4:170 (Safety), ~~4:180 (Pandemic Preparedness, Management, and Recovery)~~, 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, 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.

27. Reports, Requests and Open Discussion

A. Superintendent's Report

B. Financial Reports

28. Adjournment

NOTICE OF NONDISCRIMINATION PRACTICES

The Moline-Coal Valley School District No. 40 does not discriminate against employees, students or the general public in its programs or practices, including vocational education opportunities, on the basis of race, color, religion, gender, disability, age, marital status, citizenship status, military status, unfavorable discharge from the military service, national origin or ancestry in accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act. In accordance with Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, any individual who is in need of assistance or reasonable accommodations to be able to participate in a school district-related activity, including the employment application or interview process, should contact the Superintendent of Schools at the District administrative offices. Any individual who wishes to file a complaint of unlawful discrimination should contact the Superintendent of Schools or the Secretary of the Board of Education at the District administrative offices, 1619 Eleventh Avenue, Moline, IL 61265.