

School Board

Vacancies on the School Board - Filling Vacancies ¹

Vacancy

Elective office of a School Board member becomes vacant before the term's expiration when any of the following occurs: ²

1. Death of the incumbent,
2. Resignation in writing filed with the Secretary of the Board,
3. Legal disability, ³
4. Conviction of a felony, bribery, perjury, or other infamous crime or of any offense involving a violation of official oath or of a violent crime against a child, ⁴
5. Removal from office,
6. The decision of a competent tribunal declaring his or her election void, ⁵
7. Ceasing to be an inhabitant of the District or a particular area from which he or she was elected, if the residential requirements contained in the School Code are violated,
8. An illegal conflict of interest, ⁶ or
9. Acceptance of a second public office that is incompatible with Board membership. 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. A helpful publication is on the IASB website, *Vacancies on the Board of Education*, published by the Ill. Council of School Attorneys (ICSA), available at: www.iasb.com/law/vacancies.cfm.

² 105 ILCS 5/10-11. See also 10 ILCS 5/25-2.

³ *Id.* Legal disability is not defined, but must be interpreted consistently with other laws, e.g., laws prohibiting discrimination on the basis of a disability. A similar statute regarding the occurrence of vacancies on the State Board of Education provides guidance. It states that a vacancy occurs when: "a member is adjudicated to be a person under legal disability under the Probate Act of 1975, as amended, or a person subject to involuntary admission under the Mental Health and Developmental Disabilities Code."

⁴ *Id.* at f/n 2. See also Ill. Constitution, Art. XIII, and 5 ILCS 280/1. Depending on the authority, infamous crime has different meanings. Pursuant to 10 ILCS 25-2 felony, bribery, and perjury fall are infamous crimes. An infamous crime is one that is inconsistent with commonly accepted principles of honesty and decency. People ex rel. City of Kankakee v. Morris, 467 N.E.2d 589 126 Ill.App.3d 722 (Ill.App.3-3rd Dist. 1984). An admission of guilt, pursuant to a plea agreement, to an otherwise office-disqualifying offense, constitutes a resignation, (10 ILCS 5/25-2). An Ill. Appellate court twice found that a felony forgery conviction in another state constituted an infamous crime rendering the individual ineligible to hold the office of school board member. Alvarez v. Williams, 23 N.E.3d 544 (Ill.App.1 2014); Williams v. Cook Co. Officers Electoral Board, 35 N.E.3d 82 (Ill.App.1 2015).

A board member commits official misconduct if he/she intentionally or recklessly fails to perform any mandatory duty required by law, knowingly performs an act forbidden by law, performs an act in excess of his or her lawful authority intends in order to obtain personal advantage for oneself or another, or solicits or knowingly accepts for doing any act a fee or reward which he or she knows is not authorized by law a bribe. (720 ILCS 5/33-3).

⁵ See *Miceli v. Lavelle*, 448 N.E.2d 989 114 Ill.App.3d 311 (Ill.App.3, 1983 1st Dist. 1983).

⁶ *Id.* at f/n 2 and 50 ILCS 105/34. 105 ILCS 5/10-9 contains limited exceptions to the laws prohibiting board member interest in contracts (explained in footnotes to 2:100, *Board Member Conflict of Interest*). Virtually the same exceptions are stated in 50 ILCS 105/3. For more information, see *Conflict of Interest and Incompatible Offices FAQ* (ICSA), available at: www.iasb.com/law/COI_FAQ.pdf.

⁷ An individual may not hold simultaneously two offices that are incompatible; acceptance of the second office is a constructive resignation of the first office (Ill. Constitution, Art. IV, Sec.¶ 2(c), and Art. VI, Sec.¶ 13(b)). The offices of alderman, school board member, and park district commissioner are incompatible. *People ex. Rel. Alvarez v. Price*, 948 N.E.2d 174408 Ill.App.3d 457 (Ill.App.1 Dist.1st Dist. 2011). The court found that offices can be incompatible absent an actual conflict; the eventuality of a conflict is enough. See *People v. Wilson*, 828 N.E.2d 1214357 Ill.App.3d 204 (Ill.App.3,3rd Dist. -2005)(simultaneously holding offices as a county board member and a school board member violates the Public Officer Prohibited Activities Act; this legislation prohibits a county board member from holding a second office).

Filling Vacancies ⁸

Whenever a vacancy occurs, the remaining members shall notify the Regional Superintendent of Schools of that vacancy within five days after its occurrence and shall fill the vacancy until the next regular board election, at which election a successor shall be elected to serve the remainder of the unexpired term. However, if the vacancy occurs with less than 868 days remaining in the term or less than 88 days before the next regularly scheduled election, the person so appointed shall serve the remainder of the unexpired term, and no election to fill the vacancy shall be held. Members appointed by the remaining members of the Board to fill vacancies shall meet any residential requirements as specified in the School Code. The Board shall fill the vacancy within 45 days after it occurred by a public vote at a meeting of the Board.

Immediately following a vacancy on the Board, the Board will publicize it and accept résumés from District residents who are interested in filling the vacancy.⁹ After reviewing the applications, the Board may invite the prospective candidates for personal interviews to be conducted during duly scheduled closed meetings.¹⁰

LEGAL REF.: 105 ILCS 5/10-10 and 5/10-11.

CROSS REF.: 2:40 (Board Member Qualifications), 2:60 (Board Member Removal from Office), 2:120 (Board Member Development)

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A board member may participate in a group health insurance program provided to an employee of the district that the board member serves if the board member is a dependent of that employee. (105 ILCS 5/10-22.3a).

⁸ This paragraph restates the requirements in 105 ILCS 5/10-10. If the board fails to act within 45 days after the vacancy occurs, the regional superintendent, under whose supervision and control the district is operating, must fill the vacancy within 30 days. (~~Id.~~).

105 ILCS 5/9-11.2 provides that in any school district that elects its board member according to area of residence and that has one or more unexpired term(s) to be filled at an election, the winner(s) of the unexpired term(s) shall be determined first and independently of those running for full terms.

If a vacancy for an area of residence remains unfilled, a board must submit a proposition at the next general election for the election of a board member at large. 105 ILCS 5/10-10.5, amended by P.A. 100-800, eff. 1-1-19.

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

⁹ The process for filling a vacancy is at the board's discretion. See 2:70-E, *Checklist for Filling Board Vacancies by Appointment*.

¹⁰ The Open Meetings Act allows a board to consider in closed session the appointment of someone to fill a vacancy. (~~5 ILCS 120/2(c)(3)~~).

School Board

Board Member Oath and Conduct

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

I, (name), do solemnly swear (or affirm) that I will faithfully discharge the duties of the office of member of the Board of Education ~~2 (or Board of School Directors, as the case may be)~~ of (name of School District), in accordance with the Constitution of the United States, the Constitution of the State of Illinois, and the laws of the State of Illinois, to the best of my ability.

I further swear (or affirm) that:

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

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

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

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

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

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

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

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

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

Commented [B21]: "School District" is stated here as it is earlier in order to match the statute.

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¹ Although the policy is not required by State or federal law, each board member, before taking his or her seat on the board, must take an oath in substantially the form given in the statute as reprinted in this sample policy. (105 ILCS 5/10-16.5, amended by P.A. 100-1055, eff. 1-1-19). Districts often ask whether this applies only to newly elected board members or to all members elected and/or re-elected. To assure compliance, those members that are newly elected or appointed and returning by re-appointment and/or re-election should take the oath as the board determines it should be administered, i.e., examine the board's policy or its current practice for administering the oath of office.

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

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

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

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

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

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

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

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

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³ Optional - State law allows the board to determine how the oath is administered. (105 ILCS 5/10-16.5, amended by P.A. 100-1055, eff. 1-1-19). Use the following alternative if a board does not want anyone to administer the oath:

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

⁴ Although national and state associations have developed codes of conduct, each board may find it helpful, as part of its self-evaluation process, to consider what behavior members expect from each other. The resulting ethics statement may serve as an important step in new member orientation. For IASB resources, see:

www.iasb.com/training/sch_bd_resources.cfm and www.iasb.com/training/schoolboardgovernancebooklet.pdf.

School Board

Board Member Development ¹

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

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

Mandatory Board Member Training ³

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

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

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

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

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

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 ~~now~~ implement PERA evaluations. After the implementation of PERA evaluations, a district may use an optional alternative evaluative dismissal process using the PERA evaluation. Before voting on a dismissal based upon an optional alternative evaluative dismissal process, a board member must complete a training program on PERA evaluations. IASB is an authorized provider of this training. For more information about PERA, see *PERA Overview for School Board Members*, iasb.com/law/pera.cfm.

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

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

The Board President or Superintendent, or their designees, will make reasonable efforts to provide ongoing professional development to Board members about the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, 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 Orientation ¹⁰

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

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

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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 ~~4~~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(B)(6)).

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

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

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)

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

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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).

~~Consult the board attorney concerning the status of two mandatory committees—the PERA (Performance Educational Reform Act) joint committee and the RIF (reduction in force) joint committee (105 ILCS 5/24A-4(b) and 5/24-12(c), respectively). These committees perform administrative/staff work and do not need to report directly to the board. Thus, most attorneys think they can be superintendent committees that do not trigger OMA (see fn 10). OMA compliance will be needed for any joint committee: (1) that is treated as a board committee, (2) when three or more board members are present, or (3) when the board attorney advises that OMA applies, e.g., interprets either joint committee to be a distinct public body created by the legislature.~~

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 ~~The Open Meetings Act (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 13-002). This means that board committees must independently fulfill ~~the Open Meetings Act~~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 ~~isare 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 or grievance arbitrations (115 ILCS 5/18, amended by P.A. 100-760, eff. 1-1-19).~~

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 105 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 ~~on the Open Meetings Act~~ as required by 105 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.

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- 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 ~~(105 ILCS 5/10-20.14)~~; 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.
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)

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¹⁰ OMA generally does not apply to *superintendent a/k/a* administrative committees. See University Professionals v. Stukel, ~~801 N.E.2d 1054-344 Ill.App.3d 856 (Ill.App.1, 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 ~~the Open Meetings Act (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.

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 ⁴
2. Title IX of the Education Amendments of 1972
3. Section 504 of the Rehabilitation Act of 1973 ⁵
4. Title VI of the Civil Rights Act, 42 U.S.C. §2000d et seq.

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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 is 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 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) 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 (State complaints), 226.570 (mediation), 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, a frequently cited accessibility standard that contains guidelines developed by a private group of accessibility experts. 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 it is not adopted as the formal legal standard for public accommodation websites, it has been used in many consent decrees and settlement agreements. See www.w3.org/TR/WCAG20/.

⁵ See f/n 3's-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 the discussion in f/n 2 of policy 8:70, *Accommodating Individuals with Disabilities*.

5. Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. §2000e et seq.
6. Sexual harassment (State Officials and Employees Ethics Act⁶, Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972)⁷

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⁶ 5 ILCS 430/70-5(a), amended by P.A. 100-554, requires governmental entities (including school districts) to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment. 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.

The policy must include, at a minimum:

- (1) a prohibition on sexual harassment;
- (2) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Ill. Dept. of Human Rights;
- (3) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the State Officials and Employees Ethics Act, the Whistleblower Act (740 ILCS 174/), and the Ill. Human Rights Act (775 ILCS 5/); and
- (4) the consequences:
 - (a) of a violation of the prohibition on sexual harassment; and
 - (b) for knowingly making a false report.

Id. See policy 5:20, *Workplace Harassment Prohibited*.

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, eff. 1-1-19. 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 ¶n 9 in policy 5:20, *Workplace Harassment Prohibited*.

⁷ Consult the board attorney to ensure the district's nondiscrimination coordinator and complaint managers are trained to appropriately respond to allegations of discrimination based upon bullying and/or sexual violence under Title IX's sexual harassment umbrella. In September 2017, the U.S. Dept. of Education (DOE) withdrew its sexual violence Title IX guidance issued in 2011 and 2014, which mandated procedures for processing student-on-student sexual conduct, including using a preponderance of the evidence standard for student discipline. The DOE has issued interim guidance until new rulemaking is promulgated: *Q&A on Campus Sexual Misconduct* (OCR September 2017) at: www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term. An earlier guidance document also highlights appropriate responses to sexual violence under Title IX. See *Revised Sexual Harassment Guidance: Harassment of Student by School Employees, Other Students, or Third Parties, January 2001* at: www2.ed.gov/offices/OCR/archives/pdf/shguide.pdf.

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). 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 (Illinois Genetic Information Privacy Act (GIPA), 410 ILCS 513/ and Titles I and II of the Genetic Information Nondiscrimination Act (GINA), 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.

⁹ All districts must have a policy on bullying. 105 ILCS 5/27-23.7. See 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.*, 171 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 Act (740 ILCS 175/) 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~~ 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.

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/qanda_geneticinfo.html. An FAQ titled, *FAQs on the Genetic Information Nondiscrimination Act* is available at: www.dol.gov/ebsa/faqs/faq-GINA.html.

The Ill. Genetic Information Protection Act (GIPA) (~~410~~ 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.

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.

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*

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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 Medical Leave Act 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. 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.

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

¹⁵ This is a best practice.

Prohibited, the Complaint Manager shall process and review the complaint according to that policy, in addition to any response required by this policy 2:260, *Uniform Grievance Procedure*.

Investigation

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 parent(s)/guardian(s) 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, (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 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 of 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.

If a complaint contains allegations involving the Superintendent, 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 as well as to the Complaint Manager. All decisions shall be based upon the *preponderance of evidence* standard.¹⁷

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

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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).

¹⁷ *Preponderance of evidence* is a standard of proof in civil cases. It means "evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not." See *Black's Law Dictionary*, 9th ed. 2009.

For complaints containing allegations involving the Superintendent, within 30 school business days after receiving the Complaint Manager's report, the Board shall mail its written decision to the Complainant and the accused by first class U.S. mail 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.¹⁸

Appointing a Nondiscrimination Coordinator and Complaint Managers ¹⁹

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 employees, students, and others. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.²⁰

The Superintendent shall appoint at least one Complaint Manager to administer the complaint process in 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, addresses, and telephone numbers of the Nondiscrimination Coordinator and the Complaint Managers.²¹

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

¹⁸ 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. 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.

¹⁹ Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. OCR prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (1) a *Dear Colleague Letter on Title IX Coordinators*; (2) a *Letter to Title IX Coordinators* that provides them with more information about their role; and (3) a *Title IX Resource Guide* that includes an overview of Title IX's requirements with respect to several key issues. See www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html.

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.

²⁰ 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.

²¹ 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 maintains a handbook service that coordinates with PRESS material, *Online Model Student Handbook (MSH)*, at: www.ilprincipals.org/resources/model-student-handbook.

Nondiscrimination Coordinator:

Name

Address

Email

Telephone

Complaint Managers:

Name

Address

Email

Telephone

Name

Address

Email

Telephone

LEGAL REF.: Age Discrimination in Employment Act, 29 U.S.C. §621 et seq.
Americans With Disabilities Act, 42 U.S.C. §12101 et seq.
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).
Genetic Information Nondiscrimination Act, 42 U.S.C. §2000ff et seq.
Immigration Reform and Control Act, 8 U.S.C. §1324a et seq.
McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.
Rehabilitation Act of 1973, 29 U.S.C. §791 et seq.
Title VI of the Civil Rights Act, 42 U.S.C. §2000d et seq.
Title IX of the Education Amendments, 20 U.S.C. §1681 et seq.
State Officials and Employees Ethics Act, 5 ILCS 430/70-5(a).
105 ILCS 5/2-3.8, 5/3-10, 5/10-20.7a, 5/10-20.60, 5/10-22.5, 5/22-19, 5/24-4, 5/27-1, 5/27-23.7, and 45/1-15.
Illinois Genetic Information Privacy Act, 410 ILCS 513/.
Illinois Whistleblower Act, 740 ILCS 174/.
Illinois Human Rights Act, 775 ILCS 5/.
Victims' Economic Security and Safety Act, 820 ILCS 180/, 56 Ill.Admin.Code Part 280.
Equal Pay Act of 2003, 820 ILCS 112/.
Employee Credit Privacy Act, 820 ILCS 70/.
23 Ill.Admin.Code §§1.240 and 200.40.

CROSS REF.: 2:105 (Ethics and Gift Ban), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 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), 7:310 (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)

General School Administration

Superintendent ¹

Duties and Authority

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

Qualifications

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

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

¹ State law controls this policy's content. Unless the district has only one school with fewer than four teachers, the board must employ a superintendent or a chief executive officer as allowed under specific circumstances. (105 ILCS 5/10-21.4, amended by P.A. 99-846). This statute assigns some specific duties to the superintendent including to: (1) make recommendations to the board concerning the budget, building plans, the locations of sites, the selection, retention, and dismissal of teachers and all other employees, the selection of textbooks, instructional material, and courses of study; (2) report to the board, 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 See 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*, for an annotated list of documents and reports that must be posted on the district's website, if the district has a website. While not comprehensive, see the IASB's *Annual School Calendar* for the required reports that do not need web-posting, available on the IASB website at: www.iasb.com/pdf/schoolcal.pdf

³ 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.

⁴ 105 ILCS 5/21B-20 and 5/21B-25 govern Professional Educator Licenses and superintendent endorsements. See also 23 Ill.Admin.Code §§25.355, amended at 42 Ill. Reg. 8913 (endorsements on or after 9-1-16), 25.360 (through 8-31-19), 29.100 (Ill. Professional School Leader Standards), and 29.130 (Superintendent Standards).

Evaluation

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

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

Compensation and Benefits ⁷

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.

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⁵ 105 ILCS 5/10-16.7 requires a board to evaluate the superintendent. See [The Superintendent Evaluation Process on the IASB website: www.iasb.com/training/superintendent-evaluation-process.pdf](http://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.

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

⁷ According to 105 ILCS 5/10-23.8, a superintendent must be employed under either: (1) a one-year contract, in which case he or she gains and retains tenure rights; or (2) a multi-year performance-based contract, in which case he or she waives all tenure rights but does not lose any previously acquired tenure credit with the district. A multi-year performance-based contract must contain specific student performance and academic improvement goals and indicators; see [Superintendent Performance Contracts, published by IASB3:40-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 Ed. of Schaumburg Community Consolidated School Dist. No. 54 v. TRS, 985 N.E.2d 305368 Ill.Dec. 341 \(Ill.App.4,4th Dist. 2013\)](#)(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, 5/10-23.8, 5/21B-20, 5/21B-25, 5/24-11, and 5/24A-3.
23 Ill.Admin.Code §§1.310, 1.705, and 29.130.

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

Operational Services

Identity Protection ¹

The collection, storage, use, and disclosure of social security numbers by the School District shall be consistent with State and federal laws. The goals for managing the District's collection, storage, use, and disclosure of social security numbers are to: ²

1. Limit all activities involving social security numbers to those circumstances that are authorized by State or federal law.
2. Protect each social security number collected or maintained by the District from unauthorized disclosure.

The Superintendent is responsible for ensuring that the District complies with the Identity Protection Act, 5 ILCS 179/. Compliance measures shall include each of the following:^{3 4}

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

1 Consult the board attorney before adoption of this policy. Districts may choose to provide or implement more protections than the statutory requirements outlined in this sample policy. While the laws that apply to this policy govern current management of sensitive information, best practices may outpace the law's ability to keep up. See also f/n19 to sample policy 2:250, *Access to District Public Records*, detailing the preservation requirements of the Local Records Act (50 ILCS 205/3), the Family Educational Rights and Privacy Act (20 U.S.C. §1232g), and the Ill. School Student Records Act (105 ILCS 10/), and litigation holds or document preservation requirements pursuant to Federal Rules of Civil Procedure (Rules 16 and 26).

The Identity Protection Act (IPA); (5 ILCS 179/) requires that this subject matter be covered in policy and controls its content. **5 ILCS 179/35.** The Act places greater limits on the use of social security numbers (SSNs) than federal law. The IPA defines *identity-protection policy* as "any policy created to protect social security numbers from unauthorized disclosure." *Social security number* is not capitalized in the IPA. 5 ILCS 179/5. Much of a district's collection, storage, use, and disclosure of SSNs applies to employee records only. But limited exceptions may exist where a school district may need to ask students or their parents/guardians to provide SSNs, and any collection and retention of students' SSNs must also be in accordance with this policy.

Another State law, the Personal Information Protection Act (PIPA); (815 ILCS 530/, amended by P.A. 99-503) ~~contains mandates for~~*requires data collectors of personal information to provide certain notice to Illinois residents when the collector's system data is breached, 815 ILCS 530/10. Under PIPA, data collector is broadly defined to include government agencies and any entities that deal with nonpublic personal information. Personal information is defined as: (1) an individual's first name or first initial combined with a SSN, driver's license number or State identification card number, financial account information (including without limitation, credit or debit card numbers), medical or health insurance information or biometric data; or (2) a username or email address in combination with a password or security question and answer that would permit access to an online account. Id. at 530/5. Depending on whether the data collector owns or merely maintains or stores the information, additional notification requirements will also apply. Finally, PIPA requires units of local governments to dispose of personal information so that it may not be read or reconstructed. Id. at 530/40. Many lawyers disagree whether Section 530/40 applies to school districts because PIPA does not specifically identify school districts as units of local governments (Ill. Constitution Article VII, Sec. 1). Consult the board attorney for advice on the applicability of PIPA's various mandates to your district. government agencies and local governments. PIPA does not specifically identify school districts as local governments to which the law applies. Consequently, PIPA's application to school districts is questionable because the Ill. Constitution, Article VII, Section 1, expressly exempts school districts from units of local government. PIPA contains requirements for: (1) notifying an owner of a security breach, and (2) disposing of material containing personal information (defined as the owner's name combined with SSN, driver's license number or State identification card number, and financial account information, including without limitation, credit or debit card numbers). Consult with the board attorney for further advice on the application of PIPA.* See f/n 4, below for more information about options to include PIPA requirements in this sample policy.

² The list of goals is optional; it may be deleted, augmented, or otherwise amended.

³ The IPA requires items #1-4 to be covered in a policy. 5 ILCS 179/3-5(a).

1. All employees having access to social security numbers in the course of performing their duties shall be trained to protect the confidentiality of social security numbers. Training should include instructions on the proper handling of information containing social security numbers from the time of collection through the destruction of the information.
2. Only employees who are required to use or handle information or documents that contain social security numbers shall have access to such information or documents.
3. Social security numbers requested from an individual shall be provided in a manner that makes the social security number easily redacted if the record is required to be released as part of a public records request.
4. When collecting a social security number or upon request by an individual, a statement of the purpose(s) for which the District is collecting and using the social security number shall be provided. The stated reason for collection of the social security number must be relevant to the documented purpose.⁵
5. All employees must be advised of this policy's existence, and a copy of the policy must be made available to each employee. The policy must also be made available to any member of the public, upon request.⁶
6. If this policy is amended, employees will be advised of the existence of the amended policy and a copy of the amended policy will be made available to each employee.⁷

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

⁴ For boards that want to include PIPA mandates in this Policy, insert the following option after the IPA items #1-4, or if the board includes items #5 and #6 (discussed in f/n 6, below), after items #1-6, and add "815 ILCS 530/, Personal Information Protection Act" to the Legal References:

The Superintendent is also responsible for ensuring the District complies with the Personal Information Protection Act, 815 ILCS 530/. Compliance measures shall include each of the following:

1. Written or electronic notification to an individual and, if applicable, the owner of the information, as required by 815 ILCS 530/10² whenever his or her personal information was acquired by an unauthorized person; *personal information* means either:
 - a. An individual's first name or first initial and last name in combination with any one or more of his or her (i) social security number, (ii) driver's license number or State identification card number, (iii) financial account information (with any required security codes or passwords), (iv) medical information, (v) health insurance information, and/or (vi) unique biometric data or other unique physical or digital representation of biometric data, when either the name or the data elements are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the name or data elements have been acquired through the breach of security; or
 - b. An individual's username or email address, in combination with a password or security question and answer that would permit access to an online account, when either the username or email address or password or security question and answer are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the data elements have been obtained through the breach of security.
2. Cooperation with the owner of the information in matters relating to the breach, if applicable, as required by 815 ILCS 530/10.
- ~~2.3. Disposal of materials containing personal information in a manner that renders the personal information unreadable, unusable, and undecipherable; personal information has the meaning stated in #1, above.~~
- ~~3. — Notification, no later than 45 days of the discovery of a security breach, to the Illinois Attorney General:~~
 - ~~a. — If the District suffers a breach of more than 250 Illinois residents; or~~
 - ~~b.a. When the District provides notice as required in #1, above.~~

⁵ See 4:15-E2, *Statement of Purpose for Collection of Social Security Numbers*.

⁶ Items #5 and #6 are not required to be in policy but districts are required to perform the described action(s). 5 ILCS 179/35(b). These compliance measures are covered in 4:15-AP, *Protecting the Privacy of Social Security Numbers*.

No District employee shall collect, store, use, or disclose an individual's social security number unless specifically authorized by the Superintendent.⁸ This policy shall not be interpreted as a guarantee of the confidentiality of social security numbers and/or other personal information. The District will use best efforts to comply with this policy, but this policy should not be construed to convey any rights to protection of information not otherwise afforded by law.

LEGAL REF.: 5 ILCS 179/, Identity Protection Act.
50 ILCS 205/3, Local Records Act.
105 ILCS 10/, Illinois School Student Records Act.

CROSS REF: 2:250 (Access to District Public Records), 5:150 (Personnel Records), 7:340 (Student Records)

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⁷ Optional. See f/n 6 above.

⁸ This sentence is optional. Its intent is to inform employees of the need to have proper authority before collecting, storing, using, or disclosing SSNs. A board may attach a sanction to the paragraph by adding the following option:

An employee who has substantially breached the confidentiality of social security numbers may be subject to disciplinary action or sanctions up to and including dismissal in accordance with District policy and procedures.

Operational Services

Insufficient Fund Checks and Debt Recovery

Insufficient Fund Checks 1

The Superintendent or designee is responsible for collecting up to the maximum fee authorized by State law for returned checks written to the District that are not honored upon presentation to the respective bank or other depository institution for any reason. The Superintendent is authorized to contact the Board Attorney whenever necessary to collect the returned check amount, fee, collection costs and expenses, and interest.

Delinquent Debt Recovery 2

The Superintendent is authorized to seek collection of delinquent debt owed the District to the fullest extent of the law. 3

A Local Debt Recovery Program may be available through the Illinois Office of the Comptroller (IOC) in the future. To participate in it, an intergovernmental agreement (IGA) between the District and the IOC must be in existence. The IGA establishes the terms under which the District may refer a

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¹ State law controls this policy's content. 810 ILCS 5/3-806 authorizes a \$25.00 collection fee whenever a check is not honored upon presentation because the individual does not have an account with the bank, the individual does not have sufficient funds in his or her account, or the individual does not have sufficient credit with the bank.

This fee may be considered punitive considering several banks rarely charge this amount for an insufficient funds check. To allow more flexibility for the superintendent and his or her designees to charge the full collection fee of \$25.00, a portion thereof, or none of it, the first sentence states "up to the maximum fee." Boards choosing to allow this flexibility should discuss equal protection issues with the board attorney. As a general rule, any flexibility should be applied with uniform rules to all individuals and/or groups to avoid triggering the Constitution's Equal Protection Clause.

Boards that wish to charge the maximum fee in all circumstances should delete the words *up to* in the first sentence: "The Superintendent or designee is responsible for collecting ~~up to~~ the maximum fee authorized by State law for returned checks written to the District that are not honored upon presentation to the respective bank or other depository institution for any reason."

² This section is optional but because the policy's title refers to debt recovery, at least the first sentence should be retained.

The Ill. Office of the Comptroller (IOC) operates an Offset System for collecting debt owed to the State, political subdivisions of the State, and school districts by persons receiving payments from the State. Seeking debt recovery through an offset of a future payment the State makes to a debtor is optional. The requirements in this policy for obtaining an offset are either in statute or the IOC's intergovernmental agreement (IGA). ~~(15 ILCS 405/10.05 and 10.05d)~~. The first step to participate is to enter into the IGA with the IOC's office. Contact a Local Debt Recovery Program (LDRP) manager with the IOC to join. Program managers work one-on-one with districts. The LDRP's general number is [312/814-2488](tel:3128142488) [55/881-2301](tel:3128142488) and email is ldrp@mail.ioe.state.il.us - LDRPhelpdesk@illinoiscomptroller.gov. Contact the board attorney for advice and assistance.

While this paragraph is not a prerequisite to participation in the ~~Offset Program~~ [LDRP](#), it will help the board's monitoring function by identifying the Program's important components. Moreover, it serves as an element of due process by informing the public and the district's debtors that the district will collect debt through the ~~Offset Program~~ [LDRP](#).

[The Hunger-Free Students' Bill of Rights Act \(HFSBRA\) \(105 ILCS 123/, added by P.A. 100-1092\) allows districts with participating schools under the National School Lunch and Child Nutrition Acts \(defined in 7 C.F.R. Parts 210, 220, and 245\) to seek an offset under the State Comptroller Act \(15 ILCS 405/\) when they have made reasonable efforts, for at least one year, to collect a debt owed for meals and snacks in the amount of no less than \\$500 from a student's parent or guardian.](#)

³ There are methods other than the IOC's ~~Local Debt Recovery Program~~ to collect delinquent debts owed to the school district, i.e., small claims court, private collection agencies, etc. If the district decides it will not ever seek to enter the IOC's Local Debt Recovery Program, keep the first sentence and delete everything after it.

delinquent debt to the IOC for an offset (deduction). The IOC may execute an offset, in the amount of the delinquent debt owed to the District, from a future payment that the State makes to an individual or entity responsible for paying the delinquent debt.

The Superintendent or designee shall execute the requirements of the IGA. While executing the requirements of the IGA, the Superintendent or designee is responsible, without limitation, for each of the following:

1. Providing a District-wide, uniform, method of notice and due process to the individual or entity against whom a claim for delinquent debt payment (*claim*) is made. Written notice and an opportunity to be heard must be given to the individual or entity responsible for paying a delinquent debt before the claim is certified to the IOC for offset. The notice must state the claim's amount, the reason for the amount due, the claim's date or time period, and a description of the process to challenge the claim. If reimbursable meals or snacks provided under the Hunger-Free Students' Bill of Rights Act are the basis of the District's delinquent debt claim of no less than \$500, the notice must be sent to a student's parent(s)/guardian(s) only after: (a) the student owes the District more than five meals and/or snacks; (b) the Superintendent or designee made: (i) repeated contacts to collect the amounts owed, and (ii) reasonable efforts to collect the amount due for at least one year; and (c) the District requested the student's parent(s)/guardian(s) to apply for meal benefits pursuant to policy 4:130, *Free and Reduced-Price Food Services*, and they either: (i) did not qualify, or (ii) refused to apply.⁴
2. An individual or entity challenging a claim shall be provided an informal proceeding to refute the claim's existence, amount, or current collectability; the decision following this proceeding shall be reviewable.
 - a. If a waiver of student fees is requested as a challenge to paying the claim, and the waiver of student fees is denied, an appeal of the denial of a fee waiver request shall be handled according to 4:140, *Waiver of Student Fees*. If no waiver of student fees is requested, reviews regarding payment of the claim shall be handled according to this policy before certification to the IOC for offset.
 - a.b. If application for meal benefits pursuant to policy 4:130, *Free and Reduced-Price Food Services*, is requested as a challenge to paying the claim, and the request is denied, an appeal of the denial of the request shall be handled according to 4:130, *Free and Reduced-Price Food Services*. If no request for meal benefits is received, review of the

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⁴ Optional. For districts that do not participate in free and reduced-price meal programs under the National School Lunch and Child Nutrition Acts (defined in 7 C.F.R. Parts 210, 220, and 245), delete this sentence and 105 ILCS 123/ *Hunger-Free Students' Bill of Rights Act* from the Legal References. Inclusion of this sentence does not obligate a district to pursue all such delinquent debt claims. The district has discretion in this area, provided its recovery efforts are pursued on a non-discriminatory basis.

For participating districts that do not want this sentence, delete it.

For participating districts that wish to retain this sentence, the HFSBRA (105 ILCS 123/, added by P.A. 100-1092), allows school districts to determine a lower amount than five meals to trigger contact with a student's parent/guardian to collect owed monies.

For districts that want to set a lower amount than the equivalent of five meals, delete five and insert: [number]. Be sure that this sentence's number matches the required notice in 4:130-E, *Free and Reduced-Price Food Services; Meal Charge Notifications*. Before the board and the superintendent engage in a conversation about lowering this number, the superintendent may want to consider a conversation with his or her staff regarding the logistics of contacting a student's parent(s)/guardian(s) more than once per week (five lunches (the law states one free lunch or snack per day)) as setting a lower number may be impracticable for staff members to implement.

Note: Deletion may affect a district's ability to enter any future IOC Offset System for collecting debt owed to school districts by persons receiving payments from the State. See f/n 2, above.

claim's payment shall be handled according to this policy before certification to the IOC for offset.

1.3. Certifying to the IOC that the debt is past due and legally enforceable, and notifying the IOC of any change in the status of an offset claim for delinquent debt.

2.4. Responding to requests for information from the IOC to facilitate the prompt resolution of any administrative review requests received by the IOC.

LEGAL REF.: 15 ILCS 405/10.05 and 10.05d.

105 ILCS 123/, Hunger-Free Students' Bill of Rights Act.
810 ILCS 5/3-806.

Operational Services

Free and Reduced-Price Food Services 1

Notice

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

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

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

~~2 Every public school must have a free lunch program. (School Breakfast and Lunch Program Act, 105 ILCS 125/4).~~

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

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

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

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

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

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

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

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

Eligibility Criteria and Selection of Children 4

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

Notification 5

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

Nondiscrimination Assurance 9

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

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

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

³ 7 C.F.R. §245.10(a)(1).

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

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

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

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

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

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

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

⁷ 7 C.F.R. §245.5.

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

⁹ 7 C.F.R. §§245.8 and 245.10(a)(4).

Appeal 10

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

During an appeal, students previously receiving food service benefits shall not have their benefits terminated. Students who were denied benefits shall not receive benefits during the appeal.¹¹

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

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

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

¹¹ The Hunger-Free Students' Bill of Rights Act (HFSBRA) (105 ILCS 123/, added by P.A. 100-1092), requires the district to provide a free meal or snack to a student who requests it, regardless of his or her ability to pay. See *links* to sample policy 4:45, *Insufficient Fund Checks and Debt Recovery*, for more information about this law. The HFSBRA does not contain a publication requirement.

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

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

Operational Services

Safety 1

Safety and Security

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

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

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

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

¹ State law requires a policy on several topics in this policy (~~see fn 5, 7, 8 and 9~~) and otherwise controls this policy's content. Topics previously assigned to this code number were moved in May 2014 and placed in 4:100, *Insurance Management* and 4:175, *Convicted Child Sex Offender; Screening; Notifications*.

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

³ The term *emergency operations and crisis response plan* is used because federal agencies refer to school *emergency operations plans* and the School Safety Drill Act (105 ILCS 128/) refers to *emergency and crisis response plans*.

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

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

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

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

School Safety Drill Plan 6

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

1. Three school evacuation drills to address and prepare students and school personnel for fire incidents. One of these three drills shall require the participation of the local fire department or district.
2. One bus evacuation drill.
3. One severe weather and shelter-in-place drill to address and prepare students and school personnel for possible tornado incidents.
4. One law enforcement drill to address a school shooting incident and to evaluate the preparedness of school personnel and students. This drill shall occur no later than 90 days after the first day of school of each year, and shall require the participation of all school personnel and students present at school at the time of the drill, except for those exempted by administrators or school support personnel. ⁷

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

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

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

⁷ 105 ILCS 128/20(c), amended by P.A. 100-996, eff. 1-1-19.

Annual Review

The Board or its designee will annually review each school building's emergency operations and crisis response plan(s), protocols, and procedures, as well as each building's compliance with the school safety drill plan. This annual review shall be in accordance with the School Safety Drill Act (105 ILCS 128/) and the Joint Rules of the Office of the State Fire Marshal and the ~~Illinois~~ Ill. State Board of Education (ISBE). (29 Ill.Admin.Code Part 1500). ⁸

Automated External Defibrillator (AED) ⁹

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

The District shall have an AED on site as well as a trained AED user: (1) on staff during staffed business hours; and (2) available during activities or events sponsored and conducted or supervised by the District.¹⁰ The Superintendent or designee shall ensure that every AED on the District's premises is properly tested and maintained in accordance with rules developed by the IDPH.¹¹ This policy does not create an obligation to use an AED.

Carbon Monoxide Alarms ¹²

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

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

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

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

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

¹² 105 ILCS 5/10-20.57, added by P.A. 99-470 and amended by P.A. 99-642. *Carbon monoxide detector* and *detector* mean a device having a sensor that responds to carbon monoxide gas and that is connected to an alarm control unit and approved in accordance with rules adopted by the Ill. State Fire Marshal. *Approved carbon monoxide alarm* or *alarm* means a carbon monoxide alarm that complies with all the requirements of the rules and regulations of the Ill. State Fire Marshal, bears the label of a nationally recognized testing laboratory, and complies with the most recent standards of the Underwriters Laboratories or the Canadian Standard Association. 430 ILCS 135/5.

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

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

Soccer Goal Safety 13

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

Unsafe School Choice Option 14

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

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

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

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

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

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

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

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

Lead Testing in Water ¹⁵

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

Emergency Closing

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

LEGAL REF.: 105 ILCS 5/10-20.2, 5/10-20.5~~67~~, 5/18-12, and 5/18-12.5.
105 ILCS 128/, School Safety Drill Act, implemented by 29 Ill.Admin.Code Part 1500.
210 ILCS 74/, Physical Fitness Facility Medical Emergency Preparedness Act.
225 ILCS 320/35.5, Ill. Plumbing License Law.

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

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¹⁵ 225 ILCS 320/35.5, added by P.A. 99-922 and amended by P.A. 100-103. Requires that each source of potable water in school buildings constructed on or before 1-1-00, which may be occupied by more than 10 children in grades pre-K through 5, be tested for lead. Testing for buildings constructed prior to 1-1-87 must have been conducted by 12-31-17. 225 ILCS 320/35.5(c)(4). Testing for buildings constructed between 1-2-87 and 1-1-00 must be conducted by 12-31-18. *Id.* By 6-30-19, the IDPH will determine whether it is necessary and appropriate to require testing for buildings constructed after 1-1-00. 225 ILCS 320/35.5(d).

Boards may, by resolution, use excess taxes levied for fire prevention, safety, energy conservation, and school security purposes for sampling lead in drinking water in schools and for repair and mitigation due to lead levels in the drinking water supply. 105 ILCS 5/17-2.11(j)(1), amended by P.A. 99-922.

¹⁶ 225 ILCS 320/35.5(e) requires the IDPH to post on its website guidance on mitigation actions for lead in drinking water, and ongoing water management practices, in schools. On 5-9-17, the IDPH posted *Mitigation Strategies for Lead Found in School Drinking Water* at: www.dph.illinois.gov/sites/default/files/publications/school-lead-mitigation-strategies-050917.pdf. Note: Page 2 of *Mitigation Strategies* states "IDPH is requiring the mitigation strategies and requirements contained in this guidance document to be followed for all plumbing fixtures identified with any level of lead," however the statute does not authorize the IDPH to impose such additional requirements.

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

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

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

General Personnel

Equal Employment Opportunity and Minority Recruitment 1

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

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

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

The Equal Employment Opportunities Act (EEOA, a.k.a. Title VII of the Civil Rights Act of 1964) prohibits discrimination because of an individual's race, color, religion, sex, or national origin. 42 U.S.C. §2000e *et seq.*, amended by The Lilly Ledbetter Fair Pay Act of 2009 (LLFPA), Pub.L. 111-2.

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

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

³ Section 2-102 of the IHRA, amended by P.A. 100-100, contains a new *religious discrimination* subsection. It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer's business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. 775 ILCS 5/2-102(E-5). Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. *Id.*

In addition to the IHRA and the federal EEOA (discussed in f/n 2), see [775 ILCS 35/](#), Religious Freedom Restoration Act.

⁴ In addition to the IHRA and the federal EEOA (discussed in f/n 2), see Title IX of the Education Amendments of 1972. 20 U.S.C. §1681 *et seq.* The federal Equal Pay Act prohibits an employer from paying persons of one gender less than the wage paid to persons of the opposite gender for equal work. 29 U.S.C. §206(d). The State Equal Pay Act of 2003 offers greater protection by prohibiting the payment of wages to one gender less than another gender *for the same or substantially similar work*. 820 ILCS 112/. The LLFPA defines *date of underpayment* as each time wages are underpaid. Employees have one year from the time they become aware of the underpayment to file a complaint with the Ill. Dept. of Labor (IDOL). 820 ILCS 112/15(b).

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

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

⁷ 105 ILCS 5/10-22.4 and 775 ILCS 5/1-103(Q). The term *marital status* means an individual's legal status of being married, single, separated, divorced, or widowed. 775 ILCS 5/1-103(J). This statutory definition does not encompass the identity of one's spouse. Thus, school districts may adopt no-spouse policies. [Boaden v. Dept. of Law Enforcement](#), 171 Ill.2d 230 (Ill. 1996).

citizenship status provided the individual is authorized to work in the United States;¹¹ use of lawful products while not at work;¹² being a victim of domestic or sexual violence;¹³ genetic information;¹⁴ physical or mental handicap or disability, if otherwise able to perform the essential functions of the job with reasonable accommodation;¹⁵ pregnancy, childbirth, or related medical conditions;¹⁶ credit history, unless a satisfactory credit history is an established bona fide occupational requirement of a

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⁸ Districts may not make employment decisions on the basis of arrest history, but may use job-disqualifying criminal convictions. 775 ILCS 5/2-103. The Job Opportunities for Qualified Applicants Act prohibits an employer from asking about a criminal record until the employer determines that the applicant is qualified for the position; however, this does not apply when employers are required to exclude applicants with certain criminal convictions from employment. School employers should limit their requests for criminal convictions to *job-disqualifying* convictions. 820 ILCS 75/15. See also the EEOC's guidance, *Consideration of Arrest and Conviction Records in Employment Decisions* at: www.eeoc.gov/laws/guidance/arrest_conviction.cfm.

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

¹⁰ *Military status* means a person's status on active duty or in status as a veteran in the U.S. Armed Forces, veteran of any reserve component of U.S. Armed forces, or current member or veteran of the Illinois Army National Guard or Illinois Air National Guard. 775 ILCS 5/1-103(J-1). *Unfavorable military discharge* does not include those characterized as RE-4 or *dishonorable*. 775 ILCS 5/1-103(P). The Uniformed Services Employment and Reemployment Rights Act of 1994 prohibits employers from discriminating or retaliating against any person for reasons related to past, present, or future service in a *uniformed service*. 38 U.S.C. §§4301 *et seq.*

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

¹² The Right to Privacy in the Workplace Act prohibits discrimination based on use of lawful products, e.g., alcohol and tobacco, off premises during non-working hours. 820 ILCS 55/5.

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

¹⁴ Illinois' Genetic Information Protection Act (GIPA); (410 ILCS 513/25) and Title II of Genetic Information Nondiscrimination Act (GINA); (42 U.S.C. §2000ff *et seq.*). Both laws protect job applicants and current and former employees from discrimination based on their genetic information. Note that GIPA provides greater protections to Illinois employees than Title II of GINA. GIPA, amended by P.A. 100-396, ~~eff. 1-1-18~~, prohibits employers from penalizing employees who do not disclose genetic information or do not choose to participate in a program requiring disclosure of the employee's genetic information. See f/n 129 in 2:260, *Uniform Grievance Procedure* for the definition of genetic information and a detailed description of both statutes, including of Title I of GINA affecting the use of genetic information in health insurance. In 2011, the EEOC published an informative guidance letter, *ADA & GINA: Incentives for Workplace Wellness Program* at: www.eeoc.gov/eeoc/foia/letters/2011/ada_gina_incentives.html. Consult the board attorney for guidance regarding specific application of these laws and how they integrate with other related laws, e.g., the Family Medical Leave Act, the Americans with Disabilities Act, and other State laws governing time off for sickness and workers' compensation.

¹⁵ Americans with Disabilities Act of 1990 (ADA); (42 U.S.C. §§12101 *et seq.*), amended by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA, Pub. L. 110-325) and modified by the LLFPA; Rehabilitation Act of 1973 (29 U.S.C. §791 *et seq.*).

¹⁶ 775 ILCS 5/2-102(I). Employers must provide reasonable accommodations to employees with conditions related to pregnancy, ~~or childbirth, or related conditions~~. 775 ILCS 5/2-102(J). Employers are required to post a notice summarizing the right to be free from unlawful discrimination and the right to certain reasonable accommodations. 775 ILCS 5/2-102(K). The IDOL is required to prepare such a notice, retrievable from its website, which employers may use.

Federal law also prohibits employers from discriminating against employees and applicants on the basis of pregnancy, childbirth, or related medical conditions. 42 U.S.C. §2000e(k). Pregnant workers with pregnancy-related impairments may have disabilities for which they may be entitled to reasonable accommodation under the ADA. Guidance from the EEOC (7-14-14) is available at: www.eeoc.gov/laws/guidance/pregnancy_qa.cfm.

particular position;¹⁷ or other legally protected categories.^{18 19 20 21} No one will be penalized solely for his or her status as a registered qualifying patient or a registered designated caregiver for purposes of the Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/.²²

Persons who believe they have not received equal employment opportunities should report their claims to the Nondiscrimination Coordinator and/or a Complaint Manager for the Uniform Grievance Procedure. These individuals are listed below. No employee or applicant will be discriminated or retaliated against because he or she: (1) requested, attempted to request, used, or attempted to use a reasonable accommodation as allowed by the Illinois Human Rights Act, or (2) initiated a complaint, was a witness, supplied information, or otherwise participated in an investigation or proceeding involving an alleged violation of this policy or State or federal laws, rules or regulations, provided the

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

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

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

¹⁹ Optional provision (29 U.S.C. ~~§§705(10)(A), (B), (20)(C)(v), (20)(D)~~ and 42 U.S.C. §12114; ~~29 U.S.C. §705(20)(D); 29 U.S.C. §705(20)(H)~~):

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

1. Currently using illegal drugs;
2. Having a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, are unable to perform the duties of the job; or
3. Whose current alcohol ~~or drug~~ use prevents them from performing the job's duties or constitutes a direct threat to the property or safety of others.

Persons who have successfully completed or are participating in a drug rehabilitation program are considered *disabled*.

²⁰ Districts may not make residency in the district a condition of employment for teachers or educational support personnel. 105 ILCS 5/24-4.1, 5/10-23.5. This ban on residency requirements for teachers applies only to instructional personnel, and not, for example, to assistant principals. *Owen v. Kankakee Sch. Dist.*, 261 Ill.App.3d 298 (3rd Dist. 1994). Districts also may not ask an applicant, or the applicant's previous employer, whether the applicant ever received, or filed a claim for, benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act. 820 ILCS 55/10(a). Districts are also prohibited from requiring, requesting, or coercing an employee or potential employee to provide a user name and password or any password or other related account information to gain or demand access to his or her personal online account. 820 ILCS 55/10(b), amended by P.A. 99-610. While the law does not prohibit employers from viewing public information, consult the board attorney before engaging in this practice.

²¹ School districts must accommodate mothers who choose to continue breastfeeding after returning to work. See ~~the 740 ILCS 137/~~ Right to Breastfeed Act; ~~820 ILCS 260/~~, amended by P.A. 100-1003, Nursing Mothers in the Workplace Act; and ~~29 U.S.C. §207(r)~~, Fair Labor Standards Act. See sample language for a personnel handbook in 5:10-AP, *Workplace Accommodations for Nursing Mothers*.

²² 410 ILCS 130/40; 77 Ill.Admin.Code Part 946. To legally use medical cannabis, an individual must first become a *registered qualifying patient*. Their use of cannabis (e.g. permissible locations) is governed by the Compassionate Use of Medical Cannabis Pilot Program Act. 410 ILCS 130/, amended by P.A. 100-660. There are many situations in which no one, even a registered qualifying patient, may possess or use cannabis except as provided under Ashley's Law (105 ILCS 5/22-33, added by P.A. 100-660), including in a school bus or on the grounds of any preschool, or primary or secondary school. 410 ILCS 130/30(a)(2), (3), amended by P.A. 100-660. See 5:50, *Drug- and Alcohol-Free Workplace; Tobacco Prohibition*.

employee or applicant did not make a knowingly false accusation nor provide knowingly false information. 23

Administrative Implementation

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

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23 775 ILCS 5/6-101. Discrimination on the basis of a request for or use of a reasonable accommodation is a civil rights violation under the IHRA. *Id.* Most discrimination laws prohibit retaliation against employees who oppose practices made unlawful by those laws, including, for example, the EEOA, Title IX, ADA, ADEA, Victims' Economic Security and Safety Act, the Ill. Equal Pay Act, and the Ill. Whistleblower Act.

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

The Ill. False Claims Act defines *State* to include school districts. 740 ILCS 175/2(a). Thus, boards may seek a penalty from a person for making a false claim for money or property. 740 ILCS 175/4. For information regarding the IWA and the tort of retaliatory discharge. See *Thomas v. Guardsmark*, 487 F.3d 531 (7th Cir. 2007)(discussing the elements of retaliatory discharge and IWA); *Sherman v. Kraft General Foods, Inc.*, 272 Ill.App.3d 833 (4th Dist. 1995)(finding employee who reported asbestos hazard had a cause of action for retaliatory discharge).

24 Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. The U.S. Dept. of Education's Office for Civil Rights prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (a) a *Dear Colleague Letter on Title IX Coordinators*; (b) a *Letter to Title IX Coordinators* that provides them with more information about their role; and (c) a *Title IX Resource Guide* that includes an overview of Title IX's requirements with respect to several key issues. See www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html.

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.

Nondiscrimination Coordinator²⁵:

Name

Address

Email

Telephone

Complaint Managers:

Name

Address

Email

Telephone

Name

Address

Email

Telephone

The Superintendent shall also use reasonable measures to inform staff members and applicants that the District is an equal opportunity employer, such as, by posting required notices and including this policy in the appropriate handbooks. ²⁶

Minority Recruitment ²⁷

The District will attempt to recruit and hire minority employees. The implementation of this policy may include advertising openings in minority publications, participating in minority job fairs, and recruiting at colleges and universities with significant minority enrollments. This policy, however,

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

²⁵ Sample policy 2:260, *Uniform Grievance Procedure*, states that a district's Nondiscrimination Coordinator also serves as its Title IX Coordinator. 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.

²⁶ In addition to notifying employees of the Uniform Grievance Procedure, a district must notify them of the person(s) designated to coordinate the district's compliance with Title IX and the Rehabilitation Act of 1973. 34 C.F.R. §§106.8(a), 104.8(a). The Nondiscrimination Coordinator may be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as a Complaint Manager for policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information, to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and school board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

²⁷ All districts must have a policy on minority recruitment. 105 ILCS 5/10-20.7a. Unlike minority recruitment efforts, affirmative action plans are subject to significant scrutiny because of the potential for reverse discrimination. The U.S. Constitution's guarantee of equal protection prohibits school districts from using racial hiring quotas without evidence of past discrimination. See 29 C.F.R. §1608.1 *et seq.* (EEOC's guidelines for affirmative action plans); *Wygant v. Jackson Bd. of Educ.*, 476 U.S. 267 (1986) (The goal of remedying societal discrimination does not justify race-based layoffs.); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989) (Minority contractor quota struck; quotas must be narrowly tailored to remedy past discrimination and the city failed to identify the need for remedial action and whether race-neutral alternatives existed.).

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

does not require or permit the District to give preferential treatment or special rights based on a protected status without evidence of past discrimination.

LEGAL REF.: 8 U.S.C. §1324a et seq., Immigration Reform and Control Act.
20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972, implemented by 34 C.F.R. Part 106.
29 U.S.C. §206(d), Equal Pay Act.
29 U.S.C. §621 et seq., Age Discrimination in Employment Act.
29 U.S.C. §791 et seq., Rehabilitation Act of 1973.
38 U.S.C. §4301 et seq., Uniformed Services Employment and Reemployment Rights Act (1994).
42 U.S.C. §1981 et seq., Civil Rights Act of 1991.
42 U.S.C. §2000e et seq., Title VII of the Civil Rights Act of 1964, implemented by 29 C.F.R. Part 1601.
42 U.S.C. §2000ff et seq., Genetic Information Nondiscrimination Act of 2008.
42 U.S.C. §2000d et seq., Title VI of the Civil Rights Act of 1964.
42 U.S.C. §2000e(k), Pregnancy Discrimination Act.
42 U.S.C. §12111 et seq., Americans with Disabilities Act, Title I.
Ill. Constitution, Art. I, §§17, 18, and 19.
105 ILCS 5/10-20.7, 5/20.7a, 5/21.1, 5/22.4, 5/23.5, 5/22-19, 5/24-4, 5/24-4.1, and 5/24-7.
410 ILCS 130/40, Compassionate Use of Medical Cannabis Pilot Program Act.
410 ILCS 513/25, Genetic Information Protection Act.
740 ILCS 174/, Ill. Whistleblower Act.
775 ILCS 5/1-103, 5/2-102, 103, and 5/6-101, Ill. Human Rights Act.
775 ILCS 35/5, Religious Freedom Restoration Act.
820 ILCS 55/10, Right to Privacy in the Workplace Act.
820 ILCS 70/, Employee Credit Privacy Act.
820 ILCS 75/, Job Opportunities for Qualified Applicants Act.
820 ILCS 112/, Ill. Equal Pay Act of 2003.
820 ILCS 180/30, Victims' Economic Security and Safety Act.
820 ILCS 260/, Nursing Mothers in the Workplace Act.

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

General Personnel

Workplace Harassment Prohibited ¹

The School District expects the workplace environment to be productive, respectful, and free of unlawful discrimination, including harassment. District employees shall not engage in harassment or abusive conduct on the basis of an individual's race, religion², national origin, sex, sexual orientation, age, citizenship status, disability, or other protected status identified in Board policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. Harassment of students, including, but not limited to, sexual harassment, is prohibited by Board policy 7:20, *Harassment of Students Prohibited*.

The District will take remedial and corrective action to address unlawful workplace harassment, including sexual harassment.

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. Federal law requires districts to take action to prevent sexual harassment and to disseminate a policy regarding its prohibition of sex discrimination. 29 C.F.R. §1604.11(f); 34 C.F.R. §106.9. Harassment based on a protected status is a form of discrimination that violates many State and federal laws (see the policy's Legal References).

Workplace harassment policies have typically focused on *sexual* harassment since it receives the most attention. However, the broad prohibitions against discrimination in State and federal civil rights laws will cover harassing conduct that is motivated by animus against any protected status. See Porter v. Erie Foods International, Inc., 576 F.3d 629 (7th Cir. 2009) (recognizing a cause of action for race harassment). For a list of protected statuses, see policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. This policy prohibiting harassment has a separate section on sexual harassment because of the extensive statutory and case law regarding it.

An employer is liable under Title VII of the Civil Rights Act of 1964 (Title VII) for an employee's harassment of a co-worker if the employer was negligent with respect to the offensive behavior by, for example, failing to take remedial action when it knew or should have known about the harassment. 42 U.S.C. §2000e *et seq.* However, when the perpetrator is the victim's supervisor, the employer will be vicariously liable for the supervisor's actions. Lack of knowledge of a supervisor's misconduct is no defense. Burlington Industries v. Ellerth, 524 U.S. 742 (1998); Faragher v. City of Boca Raton, 524 U.S. 775 (1998). A *supervisor* is someone who has the authority to demote, discharge, or take other negative job action against the victim. Yance v. Ball State University, 133 S.Ct. 2434 (2013). Note that the Ill. Human Rights Act (IHRA), (775 ILCS 5/2-102(D)) imposes strict liability on the employer when an employee has been sexually harassed by supervisory personnel regardless of whether the harasser has any authority over the complainant. Sangamon County Sheriff's Dept. v. Ill. Human Rights Com'n, 233 Ill.2d 125 (Ill. 2009).

Not all harassing conduct is unlawful discrimination, even if it is disruptive and hurtful. If a board wants to include language in this policy prohibiting employees from engaging in intimidating or offensive conduct that is *not* a civil rights violation, it should consult the board attorney.

² Section 2-102 of the IHRA, amended by P.A. 100-100, contains a new *religious discrimination* subsection. It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer's business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. 775 ILCS 5/2-102(E-5). Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. *Id.*

Sexual Harassment Prohibited ³

The School District shall provide a workplace 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.

District employees shall not make unwelcome sexual advances or request sexual favors or engage in any unwelcome conduct of a sexual nature when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.⁴ Sexual harassment prohibited by this policy includes, but is not limited to, verbal, physical, or other conduct. The terms intimidating, hostile, or offensive include, but are not limited to, conduct that has the effect of humiliation, embarrassment, or discomfort. Sexual harassment will be evaluated in light of all the circumstances.

Making a Complaint

Employees are encouraged to promptly report information regarding violations of this policy.⁵ Employees may choose to report to a person of the employee's same gender. Every effort should be made to file such complaints as soon as possible, while facts are known and potential witnesses are available.

Aggrieved employees, if they feel comfortable doing so, should directly inform the person engaging in the harassing conduct or communication that such conduct or communication is offensive and must stop.

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

³ The IHRA (775 ILCS 5/2-102(D)) provides that sexual harassment is a civil rights violation:

For any employer, employee, agent of any employer, employment agency or labor organization to engage in sexual harassment; provided, that an employer shall be responsible for sexual harassment of the employer's employees by non-employees or non-managerial and non-supervisory employees only if the employer becomes aware of the conduct and fails to take reasonable corrective measures.

The State Officials and Employees Ethics Act (SOEEA) (5 ILCS 430/70-5(a), amended by P.A. 100-554) requires governmental entities (including school districts) to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment. 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.

The policy must include, at a minimum: (1) a prohibition on sexual harassment; (2) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Ill. Dept. of Human Rights (IDHR); (3) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the ~~State Officials and Employees Ethics Act~~ SOEEA, the Whistleblower Act (740 ILCS 174), and the IHRA (775 ILCS 5/); and (4) the consequences: (a) of a violation of the prohibition on sexual harassment and (b) for knowingly making a false report. *Id.*

⁴ This definition is from State and federal law. 775 ILCS 5/2-101(E) and 29 C.F.R. §1604.11. The harassing conduct must be severe or pervasive so as to alter the conditions of the employee's work environment by creating a hostile or abusive situation. *Williams v. Waste Management*, 361 F.3d 1021 (7th Cir. 2004). The surrounding circumstances, expectations, and relationships will distinguish between teasing or rough-housing and conduct that a reasonable person would find severely hostile or abusive. In addition, while same-sex gender harassment claims are actionable, the victim must show that s/he suffered disadvantageous employment conditions to which members of the other sex were not exposed. *Oncale v. Sundown Offshore Services*, 535 U.S. 75 (1998).

⁵ School districts are not required to train employees regarding workplace harassment, including sexual harassment; however it is best practice. For districts that wish to provide such trainings, best practices suggest annual trainings work best, including on applicable board policies and procedures, what constitutes workplace harassment, complaint and enforcement mechanisms, and employees' legal rights.

Whom to Contact with a Report or Complaint ⁶

An employee should report claims of harassment, including making a confidential report, to any of the following: his/her immediate supervisor, the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.⁷ Employees may also report claims using Board policy 2:260, *Uniform Grievance Procedure*. If a claim is reported using Board policy 2:260, then the Complaint Manager shall process and review the complaint according to that policy, in addition to any response required by this policy 5:20, *Workplace Harassment Prohibited*.

The Superintendent shall insert into this policy the names, addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.

Nondiscrimination Coordinator:

Name

Address

Email

Telephone

Complaint Managers:

Name

Address

Email

Telephone

Name

Address

Email

Telephone

Investigation Process

Supervisors, Building Principals, or administrators who receive a report or complaint of harassment must promptly forward the report or complaint to the Nondiscrimination Coordinator or a Complaint Manager. A supervisor or administrator who fails to promptly forward a report or complaint may be disciplined, up to and including discharge.

⁶ The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.

⁶ Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. A policy should not be adopted with a person's name in it; rather, the identifying information can be added and amended as necessary.

⁷ 5 ILCS 430/70-5(a), amended by P.A. 100-554, requires that a school board policy prohibiting sexual harassment include details for reporting an allegation of sexual harassment, including options for making a confidential report to a supervisor and an ethics officer. 5 ILCS 430/20-23 defines *ethics officers* as being designated by State agencies under the jurisdiction of the Executive Ethics Commission. School districts are not State agencies (5 ILCS 430/1-5) and do not have ethics officers; thus, this sample policy substitutes Complaint Manager for ethics officer. Note also that the IDHR has established a Sexual Harassment Hotline Call Center and website to help the public find resources and assistance for the filing of sexual harassment complaints. The hotline can be reached Monday through Friday with the exception of State holidays, between the hours of 8:30 a.m. and 5:00 p.m., at 1-877-236-7703. See www2.illinois.gov/sites/sexualharassment/Pages/default.aspx. All communications received by the IDHR are exempt from disclosure under the Freedom of Information Act (FOIA).

Reports and complaints of harassment will be confidential to the greatest extent practicable, subject to the District's duty to investigate and maintain a workplace environment that is productive, respectful, and free of unlawful discrimination, including harassment. The District shall investigate alleged workplace harassment when a Complaint Manager becomes aware of an allegation, regardless of whether a written report or complaint is filed.

Enforcement ⁸

A violation of this policy by an employee may result in discipline, up to and including discharge.⁹ A violation of this policy by a third party will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, i.e., vendor, parent, invitee, etc. Any employee making a knowingly false accusation regarding harassment will likewise be subject to disciplinary action, up to and including discharge.¹⁰

Retaliation Prohibited

An employee's employment, compensation, or work assignment shall not be adversely affected by complaining or providing information about harassment. Retaliation against employees for bringing bona fide complaints or providing information about harassment is prohibited (see Board policy 2:260, *Uniform Grievance Procedure*), and whistleblower protection may be available under the State Officials and Employees Ethics Act (5 ILCS 430/), the Whistleblower Act (740 ILCS 174/), and the Ill. Human Rights Act (775 ILCS 5/). ¹¹

An employee should report allegations of retaliation to his/her immediate supervisor, the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.

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

⁸ See *Berry v. Delta Airlines*, 260 F.3d 803, 811 (7th Cir. 2001) ("If an employer takes reasonable steps to discover and rectify the harassment of its employees ... it has discharged its legal duty.")

In addition to violating other civil rights laws, a school district violates the *public accommodations* article in the IHRA if it fails to take corrective action to stop severe or pervasive harassment. 775 ILCS 5/5-102 and 5/5-102.2.

⁹ 5 ILCS 430/70-5(a), amended by P.A. 100-554 (consequences of a violation of the prohibition on sexual harassment). When discharge is the penalty, examine 50 ILCS 205/3c, added by P.A. 100-1040. It 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 IHRA or Title VII. Id.

Prior to the passage of 50 ILCS 205/3c, added by P.A. 100-1040, members of the public could already access copies of severance agreements between school districts and their former employees under FOIA. The Ill. Atty. Gen. Public Access Counselor (PAC) directed a public body to release a settlement agreement that arose out of claims of sexual harassment. PAO 14-4. The PAC noted that the public body could not withhold the entire settlement agreement under 5 ILCS 140/7(1)(c), which exempts personal information that would constitute a clearly unwarranted invasion of privacy. Instead, it could redact personal information from the agreement, such as the complainants' names in order to protect their privacy. Id.

See fn 6 in policy 2:260, Uniform Grievance Procedure, for more discussion about reconciling 50 ILCS 205/3c, added by P.A. 100-1040, with another new law, the Government Severance Pay Act (GSPA) (5 ILCS 415/10(a)(1), added by P.A. 100-895, eff. 1-1-19), which prohibits school district employees with contract provisions for severance pay to receive any severance pay if they are fired for misconduct by the board.

¹⁰ Id. 5 ILCS 430/70-5(a), amended by P.A. 100-554 (consequences for knowingly making a false report of sexual harassment).

¹¹ Id. (prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the ~~State Officials and Employees Ethics Act~~ SOEEA, the Whistleblower Act (740 ILCS 174/), and the IHRA (775 ILCS 5/)).

Crawford v. Metro. Gov't of Nashville & Davidson County, 555 U.S. 271 (2009) (holding the anti-retaliation provision in EEOA protects an employee who spoke out about harassment, not only on his or her own initiative, but also in answering questions during an employer's internal investigation).

Employees who retaliate against others for reporting or complaining of violations of this policy or for participating in the reporting or complaint process will be subject to disciplinary action, up to and including discharge.

Recourse to State and Federal Fair Employment Practice Agencies 12

The District encourages all employees who have information regarding violations of this policy to report the information pursuant to this policy. The following government agencies are available to assist employees: the Ill. Dept. of Human Rights and the U. S. Equal Employment Opportunity Commission.

The Superintendent shall also use reasonable measures to inform staff members and applicants of this policy, which shall include reprinting this policy in the appropriate handbooks.¹³

LEGAL REF.: Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e et seq., implemented by 29 C.F.R. §1604.11.
Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 et seq., implemented by 34 C.F.R. Part 106.
State Officials and Employees Ethics Act, 5 ILCS 430/70-5(a).
Ill. Human Rights Act, 775 ILCS 5/2-101(E), 5/2-102(D), 5/2-102(E-5), 5/5-102, and 5/5-102.2.
56 Ill. Admin.Code Parts 2500, 2510, 5210, and 5220.
Burlington Industries v. Ellerth, 524 U.S. 742 (1998).
Crawford v. Metro. Gov't of Nashville & Davidson County, 555 U.S. 271 (2009).
Faragher v. City of Boca Raton, 524 U.S. 775 (1998).
Franklin v. Gwinnett Co. Public Schools, 503 U.S. 60 (1992).
Harris v. Forklift Systems, 510 U.S. 17 (1993).
Jackson v. Birmingham Bd. of Educ., 544 U.S. 167 (2005).
Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986).
Oncale v. Sundown Offshore Services, 523 U.S. 75 (1998).
Porter v. Erie Foods International, Inc., 576 F.3d 629 (7th Cir. 2009).
Sangamon County Sheriff's Dept. v. Ill. Human Rights Com'n, 233 Ill.2d 125 (Ill. 2009).
Vance v. Ball State University, 133 S. Ct. 2434 (2013).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:10 (Equal Employment Opportunity and Minority Recruitment), 7:20 (Harassment of Students Prohibited)

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

¹² 5 ILCS 430/70-5(a), amended by P.A. 100-554, (how an individual can report an allegation of sexual harassment, including options for making a confidential report to the Inspector General or the ~~IDHR~~ Ill. Dept. of Human Rights). This sample policy does not reference the Inspector General because the Inspector General does not have jurisdiction over public school districts. 5 ILCS 430/1.

¹³ A district must notify employees of the grievance procedure and the person(s) designated to coordinate the district's compliance with Title IX. 34 C.F.R. §§106.8(a). The nondiscrimination coordinator can be the same individual for both this policy and policy 7:10, *Equal Educational Opportunities*, as well as the complaint manager in policy 2:260, *Uniform Grievance Procedure*. A comprehensive faculty handbook can provide required notices, along with other important information to recipients. The handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. Any *working conditions* contained in the handbook may be subject to mandatory collective bargaining.

General Personnel

Hiring Process and Criteria 1

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

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

Job Descriptions

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

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

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

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

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

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

~~Subject to an applicable collective bargaining agreement in effect on 6-13-11, a board that fills a "new or vacant teaching position" must select a candidate based on: (1) certifications, (2) qualifications, (3) merit and ability (including performance evaluation, if available), and (4) relevant experience. (105 ILCS 5/24-1.5). The statute does not define "new or vacant teaching positions." The requirement does not apply to filling vacant positions under 105 ILCS 5/24-12 (reduction in force and recall). Consult the board attorney about these issues.~~

~~4 An additional optional sentence follows:~~

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

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

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

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

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

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

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

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

Investigations

The Superintendent or designee shall ensure that a fingerprint-based criminal history records check and a check of the Statewide Sex Offender Database and Violent Offender Against Youth Database is performed on each applicant as required by State law.⁹ When the applicant is a successful superintendent candidate who has been offered employment by the Board, the Board President shall ensure that these checks are completed.¹⁰ The Superintendent or designee, or if the applicant is a successful superintendent candidate, then the Board President shall notify an applicant if the applicant is identified in either database.¹¹ The School Code requires the Board President to keep a conviction record confidential and share it only with the Superintendent, Regional Superintendent, State Superintendent, State Educator Preparation and Licensure Board, any other person necessary to the

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

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

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

Important: The ADAAA makes significant changes to the ADA's definition of disability that broadened the scope of coverage and overturned a series of U.S. Supreme Court decisions that made it difficult to prove that an impairment was a *qualifying disability*. The final regulations were by a bipartisan vote and approved on 3-25-11. There is information about the regulations and a link to them at: www.eeoc.gov/laws/regulations/adaaa_fact_sheet.cfm. Consult the board attorney regarding how these amendments impact the district's hiring processes.

9 The policy's requirements on criminal records checks for applicants for employment are mandated by 105 ILCS 5/10-21.9. See administrative procedure 5:30-AP2, *Investigations*, for the process and positions requiring criminal background investigation. The Statewide Sex Offender Database (a/k/a Sex Offender Registry) is available at: www.isp.state.il.us/sor. The Statewide Murderer and Violent Offender Against Youth Database is available at: www.isp.state.il.us/cmvo/. See policy 4:60, *Purchases and Contracts*, for requirements concerning criminal background checks of employees of contractors who have direct, daily contact with students.

10 Id. If a board wants to require additional background inquiries beyond the fingerprint-based criminal history records information check required by 105 ILCS 5/10-21.9, including the federal *Rap Back Service* (20 ILCS 2630/3.3, added by P.A. 100-718) and/or checks through consumer reporting agencies regulated by the Fair Credit Reporting Act (15 U.S.C. § 1681 *et seq.*), consult the board attorney. For more detailed information, see the laws listed in sample exhibit 3:40-E, *Checklist for the Superintendent Employment Contract Negotiation Process*, under the checklist item entitled *Conditions of Employment, in the Other Background Check Laws row*.

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

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

hiring decision, or for purposes of clarifying the information, the ~~Ill. Department-Dept.~~ of State Police and/or Statewide Sex Offender Database. ~~12 The Board reserves its right to authorize additional background inquiries beyond a fingerprint-based criminal history records check when it deems it appropriate to do so, in accordance with applicable laws.~~

Each newly hired employee must complete an Immigration and Naturalization Service Form as required by federal law. ~~13~~

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

The Superintendent shall ensure that the District does not engage in any investigation or inquiry prohibited by law and complies with each of the following: ~~14~~

1. The District uses an applicant's credit history or report from a consumer reporting agency only when a satisfactory credit history is an established bona fide occupational requirement of a particular position. ~~15~~
2. The District does not ask an applicant or applicant's previous employers about claim(s) made or benefit(s) received under the Workers' Compensation Act. ~~16~~
3. The District does not request of an applicant or employee access in any manner to his or her ~~personal online account, such as~~ social networking websites, including a request for passwords to such ~~sites/accounts~~. ~~17~~

Commented [DJ1]: This language and the footnotes have been revised to more closely align to the legislative changes made by P.A. 99-610.

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

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

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

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

~~14 As an alternative to describing the prohibited investigations, a board may substitute this sentence:~~

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

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

~~15 Employee Credit Privacy Act, 820 ILCS 70/. This Act allows inquiries into an applicant's credit history or credit report or ordering or obtaining an applicant's credit report from a consumer reporting agency when a satisfactory credit history is an established bona fide occupational requirement of a particular position. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more.~~

~~16 Right to Privacy in the Workplace Act, 820 ILCS 55/10(a), amended by P.A. 99-610, eff. 1-1-17.~~

5:30

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4. The District provides equal employment opportunities to all persons. See policy 5:10, *Equal Employment Opportunity and Minority Recruitment*.

Physical Examinations 18

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

Any employee may be required to have an additional examination by a physician who is licensed in Illinois to practice medicine and surgery in all its branches, or an advanced practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the authority

17 ~~Id.~~ at 55/10(b)(4)(B), amended by P.A. 99-610, eff. 1-1-17 (commonly known as the Facebook Password Law). ~~A personal online account is defined as an online account used primarily by a person for personal purposes. Personal online account does not include an account created, maintained, used, or accessed for the business purpose of a person's employer or prospective employer.~~ ~~professional account.~~ (Id. at 55/10(b)(5), amended by P.A. 99-610, eff. 1-1-17). ~~A professional account is defined as "an account, service, or profile created, maintained, used, or accessed by a current or prospective employee for business purposes of the employer."~~ Bracketed explanations follow the statutory language:

~~"Provided that the password, account information, or access sought by the employer relates to a professional account, and not a personal account, Nothing in this subsection shall prohibit or restrict an employer from complying with a duty to screen employees or applicants prior to hiring, provided that the password, account information, or access sought by the employer only relates to an online account that:~~

~~(A) an employer supplies or pays; or~~

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

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

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

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

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

18 105 ILCS 5/24-5. According to this statute, "[a] new or existing employee may be subject to additional health examinations, including tuberculosis screening, as required by rules adopted by the Ill. Dept. of Public Health or by order of a local public health official." The Ill. Dept. of Public Health does not require school employees to be screened for tuberculosis other than workers in child day care and preschool settings. (77 Ill. Admin. Code §696.140(a)(3)).

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

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

Federal law limits pre-employment medical inquiries to whether the applicant is able to perform job-related functions; required medical examinations of applicants is forbidden. (American with Disabilities Act (ADA), 42 U.S.C. §12112(d)(2)); see also fn 87 for an explanation regarding the ADAAA. Districts may condition an employment offer on taking and passing medical inquiries or physical exams, provided that all entering employees in the same classification receive the same conditional offer.

by his or her supervising physician to perform health examinations, if the examination is job-related and consistent with business necessity.¹⁹ The Board will pay the expenses of any such examination.

Orientation Program

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

LEGAL REF.: 105 ILCS ~~5/10-16.7, 5/10-20.7, 5/10-21.4, 5/10-21.9, 5/21B-10, 5/21B-80, 5/10-22.34, 5/10-22.34b, 5/22-6.5, and 5/24-5.~~
~~20 ILCS 2630/3.3, Criminal Identification Act,~~
~~820 ILCS 55/, Right to Privacy in the Workplace Act,~~
~~Employee Credit Privacy Act, 820 ILCS 70/, Employee Credit Privacy Act,~~
~~Right to Privacy in the Workplace Act, 820 ILCS 55/,~~
Americans with Disabilities Act, 42 U.S.C. § 12112, and 29 C.F.R. Part 1630.
Fair Credit Reporting Act, 15 U.S.C. § 1681 et seq.
Immigration Reform and Control Act, 8 U.S.C. § 1324a et seq.
~~105 ILCS 5/10-16.7, 5/10-20.7, 5/10-21.4, 5/10-21.9, 5/21B-10, 5/21B-80, 5/10-22.34, 5/10-22.34b, 5/22-6.5, and 5/24-1 et seq;~~
~~820 ILCS 55/ and 70/;~~
Duldulao v. St. Mary of Nazareth Hospital, 136 Ill. App. 3d 763 (1st Dist. 1985) 483 N.E.2d 956 (Ill.App.1, 1985), aff'd in part and remanded 115 Ill.2d 482 505 N.E.2d 314 (Ill., 1987).
Kaiser v. Dixon, 127 Ill. App. 3d 251 (2nd Dist. 1984) 468 N.E.2d 822 (Ill.App.2, 1984).
Molitor v. Chicago Title & Trust Co., 325 Ill. App. 124 (1st Dist. 1945) 59 N.E.2d 695 (Ill.App.1, 1945).

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

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

¹⁹ The State law (105 ILCS 5/24-5) allowing boards to require physicals of current employees "from time to time," ~~has~~ is been superseded by ~~federal law (the ADA)~~, (42 U.S.C. § 12112(d)(4)). The ADA allows medical inquiries of current employees only when they are job-related and consistent with business necessity or part of a voluntary employee wellness program. ~~(Id.)~~ Districts may deny jobs to individuals with disabilities who pose a direct threat to the health or safety of others in the workplace, provided that a reasonable accommodation would not either eliminate the risk or reduce it to an acceptable level. (42 U.S.C. § 12113; 29 C.F.R. Part 1630.2(r)). See fn 87 for an explanation regarding the ADAAA.

See the fn 186 for a discussion of examinations by spiritual leaders/practitioners.

General Personnel

Expenses ¹

The Board regulates the reimbursement of all travel, meal, and lodging expenses by resolution.² Money shall not be advanced or reimbursed, or purchase orders issued for: (1) the expenses of any person except the employee,³ (2) anyone's personal expenses,⁴ or (3) entertainment expenses.⁵ Entertainment includes, but is not limited to, shows, amusements, theaters, circuses, sporting events, or any other place of public or private entertainment or amusement, unless the entertainment is ancillary to the purpose of the program or event.⁶ The District is not responsible for losses due to an employee's own negligence, losses due to normal wear, or losses due to theft, unless the theft was a result of the District's negligence.⁷ Employees must submit the appropriate itemized, signed, standardized form(s) to support any requests for expense advancements, reimbursements, or purchase orders that show the following: ⁸

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

¹ State law controls this policy's content. (105 ILCS 5/10-9, 5/10-10, and 5/22-1 (no compensation allowed, conflicts of interest prohibited); 105 ILCS 5/10-22.32 (expense advancements); 820 ILCS 115/9.5, added by P.A. 100-1094, eff. 1-1-19 (regulation of employee expenditures under the Ill. Wage Payment and Collection Act)(WPCA) and the Local Government Travel Expense Control Act (ECA) 50 ILCS 150/10, added by P.A. 99-604, ~~eff. 1-1-17~~ (regulation of travel expenses)). ~~The deadline for implementation of this policy under the ECA is 7-1-17, but as a practical matter due to other requirements in the law, the implementation deadline will be 3-2-17.~~^s See the third paragraph in f/n 3 of policy 2:125, *Board Member Compensation; Expenses*.

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

The WPCA, 820 ILCS 115/9.5, added by P.A. 100-1094, eff. 1-1-19, defines necessary expenditures as all reasonable expenditures or losses required of the employee in the discharge of employment duties and that inure to the primary benefit of the employer.

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

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

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

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

⁴ Optional. *Personal expenses* are not defined in 50 ILCS 150/25, added by P.A. 99-604, ~~eff. 1-1-17~~ or 105 ILCS 5/10-22.32. Consult the board attorney about this term and delete it only at the direction of the board attorney. Excluding personal expenses from advancements, reimbursements, and purchase orders is a generally-accepted best practice. The practice also aligns well with the State's widely-accepted transparency movement. Reimbursing personal expenses is also a magnet for the media.

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

⁶ Id.

⁷ Optional. 820 ILCS 115/9.5, added by P.A. 100-1094, eff. 1-1-19. The purpose of this sentence is to provide information to employees and the community about WPCA exclusions from reimbursable expenses.

⁸ 50 ILCS 150/20, added by P.A. 99-604, ~~eff. 1-1-17~~. The School Code uses the term *voucher* for expense advancements (105 ILCS 5/10-22.32); the ECA requires submission of itemized, signed, standardized forms. Both 5:60-E1, *Employee Expense Reimbursement Form* and 5:60-E2, *Employee Estimated Expense Approval Form* incorporate *voucher* into the ECA's requirement to use standardized forms. See f/n ~~11-12~~ below, and see also f/n 20 of policy 2:125, *Board Member Compensation; Expenses*, for more discussion.

1. The amount of the estimated or actual expense, with attached receipts for actual incurred expenses.
2. The name and title of the employee who is requesting the expense advancement or reimbursement. Receipts from group functions must include the names, offices, and job titles of all participants.⁹
3. The date(s) of the official business on which the expense advancement, reimbursement, or purchase order will be or was expended.¹⁰
4. The nature of the official business conducted when the expense advancement, reimbursement, or purchase order will be or was expended.¹¹

Advancements

The Superintendent may advance expenses to teachers and other licensed employees for the anticipated actual and necessary expenses to be incurred while attending meetings that are related to their duties and will contribute to their professional development,¹² provided they fall below the maximum allowed in the Board's expense regulations.¹³

Expense advancement requests must be submitted to the Superintendent or designee on the District's standardized estimated expense approval form for employees. After spending expense advancements, employees must use the District's standardized expense reimbursement form and submit to the Superintendent: (a) the itemized, signed advancement voucher that was issued, and (b) the amount of actual expenses by attaching receipts.¹⁴ Any portion of an expense advancement not used must be returned to the District.¹⁵ Expense advancements and vouchers shall be presented to the Board in its regular bill process.

Reimbursements and Purchase Orders

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

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

Additionally, while the WPCA (820 ILCS 115/9.5(a)) allows employees to submit a signed statement regarding any receipts when supporting documentation is nonexistent, missing, or lost, 820 ILCS 115/9.5(b) outlines that employers are not liable for expenditure amounts that exceed the specifications or guidelines the employer has established for necessary expenditures. The ECA requires districts to establish such specifications and guidelines. 50 ILCS 150/10 and 20, added by P.A. 99-604 (regulation of travel expenses).

⁹ 50 ILCS 150/20~~id.~~ at (2) and (3). This sentence mirrors the statute. The term *offices* is not defined. Consult the board attorney about whether inserting *job titles* would be sufficient for this requirement.

¹⁰ Id. at (4).

¹¹ Id.

¹² 105 ILCS 5/10-22.32 authorizes advancements for the listed items. This statute addresses expense advancements for certain activities; its language pre-dates the ECA and is narrower than the ECA. This policy seeks to reconcile the differences by separating advancements into a separate subhead. See f/n ⁸ above, and see also f/n 20 of policy 2:125, *Board Member Compensation; Expenses*, for more discussion.

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

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

¹⁵ This paragraph's provisions are required by 105 ILCS 5/10-22.32.

Expense reimbursements and purchase order approvals are not guaranteed and, when possible, employees should seek pre-approval of expenses¹⁶ by providing an estimation of expenses on the District's standardized estimated expense approval form for employees, except in situations when the expense is diminutive. When pre-approval is not sought, employees must seek reimbursement on the District's standardized expense reimbursement form for employees. Expense reimbursements and purchase orders shall be presented to the Board in its regular bill process.

Use of Credit and Procurement Cards

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

Exceeding the Maximum Allowable Expense Amount(s) ¹⁷

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

1. The Board's resolution to regulate expenses allows for such approval;
2. An emergency or other extraordinary circumstance exists; and
3. The request is approved by a roll call vote at an open Board meeting.¹⁸

Registration ¹⁹

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

Travel

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

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

¹⁶ Optional. Consult the board attorney to determine whether a pre-approval process is appropriate for the district. Neither 105 ILCS 5/10-22.32 (expense advancements) nor 50 ILCS 150/ (expense reimbursements and estimates) address expense *pre-approvals*. 50 ILCS 150/20 states: "an *estimate* if expenses have not been incurred ..." or "a *receipt* ... if the expenses have already been incurred," suggesting no pre-approval is necessary. However, pre-approval is a best practice, and an employee who incurs expenses without pre-approval may run the risk that his or her expenses will not be approved. On the other hand, submitting estimated expenses for approval begs a pre-approval process, and some attorneys may read the law to require pre-approval of expenses. The pre-approval process also provides school officials with better information for financial planning.

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

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

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

¹⁹ Amend the language in subheads **Registration**, **Travel**, **Meals**, **Lodging**, and **Miscellaneous Expenses** to align with the MARA defined in the board's expense regulation resolution. See 2:125-E3, *Resolution to Regulate Expense Reimbursements* for a sample resolution.

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

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

Meals

Meals charged to the District should represent mid-fare selections for the hotel/meeting facility or general area.²⁰ Tips are included with meal charges. Expense forms must explain the meal charges incurred. Alcoholic beverages will not be reimbursed.

Lodging

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

Miscellaneous Expenses

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

LEGAL REF.: 50 ILCS 150/, Local Government Travel Expense Control Act.
 105 ILCS 5/10-22.32.
~~Local Government Travel Expense Control Act, 50 ILCS 150/~~
820 ILCS 115/9.5, Ill. Wage Payment and Collection Act.

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

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

²⁰ Alternatively, a board could set a daily limit on meal costs, such as:

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

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

General Personnel

Staff Development Program ¹

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

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

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

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

¹ State law requires the subject matter in paragraph 2 to be covered by policy. State or federal law controls this policy's content. A school board may set and enforce professional growth requirements. 105 ILCS 5/24-5. Failure to meet professional growth requirements is considered remediable. Morris v. Ill. State Bd. of Educ., 198 Ill.App.3d 51 (3rd Dist. 1990).

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

² This paraphrases 105 ILCS 5/10-20.36(b). The topic covered in this paragraph must be in a board policy. Id. A school medical staff, an individualized educational program team, or a professional worker (as defined in Section 14-1.10) may recommend that a student be evaluated by an appropriate medical practitioner. School personnel may consult with the practitioner, with the consent of the student's parent/guardian.

³ 105 ILCS 5/10-22.39(f) requires boards to conduct this in-service. While the language of this paragraph is not required to be in board policy, including it provides a way for boards to monitor that it is being done. Including this language provides an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for the in-service that instructs all district staff to maintain boundaries and act appropriately, professionally, and ethically with students. See also 5:120, *Employee Ethics; Conduct; and Conflict of Interest*, and *f/n* 11 in 4:110, *Transportation*. These expectations will be most effective when they reflect local conditions and circumstances. Employee conduct issues may be subjects of mandatory collective bargaining, therefore consulting the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing new employee conduct rules without first offering to negotiate them with the applicable exclusive bargaining representative.

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

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

1. At least, once every two years, training of all District staff by a person with expertise on anaphylactic reactions and management.
2. At least every two years, an in-service to train school personnel, at a minimum, to understand, provide information and referrals, and address issues pertaining to youth who are parents, expectant parents, or victims of domestic or sexual violence.

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

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

Alternative to paragraph number 2:

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

Citations for this option follow:

1. 105 ILCS 5/10-22.39(e) (refers to anaphylactic reactions/management).
2. 105 ILCS 5/10-22.39(d).
3. 105 ILCS 5/10-22.39(c).

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

4. 105 ILCS 5/10-22.39(b), amended by P.A. 100-903, eff. 1-1-19.
5. 105 ILCS 5/10-23.12; 325 ILCS 5/4; and *Erin's Law Taskforce Final Report*, authorized by 105 ILCS 5/22-65 and repealed by P.A. 99-30 because of submission of the Report at: www.isbe.net/Documents/erins-law-final0512.pdf and see also www.erinslawillinois.org/ for more resources based upon the report.
6. 105 ILCS 110/3.10(b)(2).
7. 105 ILCS 5/10-22.6(c-5), amended by P.A.s. 99-456 and 100-810, eff. 1-1-19. School board members are also included.
8. 7 C.F.R. Parts 210 and 235. Section 210.2 defines school nutrition program directors, managers and staff. 7 C.F.R. §§210.15(b)(8) (recordkeeping requirements) and 210.31(a), (c), (d), and (e) (professional standards requirements); 210.31(g)(requiring school food authority director to keep records), amended by Fed. Reg. Vol. 81, No. 146 at 50169 and finalized 7-29-16. Food service funds may be used for reasonable, allocable, and necessary training costs. 7 C.F.R. §210.31(f). The U.S. Dept. of Agriculture (USDA) has established implementation resources that contain training opportunities and resources covering the four core training areas: nutrition, operations, administration, and communications/marketing at: professionalstandards.nal.usda.gov.
9. 105 ILCS 25/1.15.
10. 105 ILCS 5/22-80(h), added by P.A. 99-245, amended by P.A. 99-486 and P.A. 100-309.
11. 105 ILCS 5/22-30(j-15), amended by P.A. 99-843. Consult the board attorney about whether:
 - a. All asthma action plans should require immediate 911 calls based upon *In re Estate of Stewart*, 406 Ill.Dec. 345 (2nd Dist. 2016); *In re Estate of Stewart*, 412 Ill.Dec. 914 (Ill. 2017) (school district's appeal denied). The court held that a teacher's failure to dial 911 immediately upon a student's asthma attack was *willful and wanton* conduct, subjecting the school district to liability under the Local Governmental and Governmental Employees Tort Immunity Act.
 - b. The duties and responsibilities of the district when it asks for, but does not receive an asthma action plan from a parent/guardian and the logistics of distributing any received plans to those employees who need to know based upon *Stewart*, above.
12. 105 ILCS 5/10-20.610 (~~final citation pending~~), added by P.A. 100-14.
13. 105 ILCS 5/10-20.17a; 23 Ill.Admin.Code §1.330.

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

5 Different from the in-service training that school districts must provide to their staff, 105 ILCS 5/3-11, amended by P.A. 99-616, contains requirements that the regional superintendents must include during teachers institutes. Instruction on prevalent student chronic health conditions, as well as educator ethics and teacher-student conduct training is also required. See also f/n 3 above discussing the board's requirement in Section 10-22.39. Beginning with the 2016-17 school year, teachers' institutes must also include instruction on the Americans with Disabilities Act of 1990 (ADA) as it pertains to the school environment at least every two years. Contact the Regional Superintendent or the appropriate Intermediate Service Center with questions about online training for this component of a teachers' institute. Discuss with the board attorney the best practices of documenting trainings and evaluations of trainings; many attorneys in the field prefer documentation of ADA trainings to assist in their defense of any potential ADA claims against the district.

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

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

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

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

- LEGAL REF.: Healthy, Hunger-Free Kids Act of 2010, 42 U.S.C. §1758b, Pub. L. 111-296.
7 C.F.R. Parts 210 and 235.
105 ILCS 5/2-3.62, 5/10-20.17a, 5/10-20.610 (P.A. 100-14, final citation pending),
5/10-22.6(c-5), 5/10-22.39, 5/10-23.12, 5/22-80(h), and 5/24-5.
105 ILCS 25/1.15, Interscholastic Athletic Organization Act.
105 ILCS 110/3, Critical Health Problems and Comprehensive Health Education Act.
325 ILCS 5/4, Abused and Neglected Child Reporting Act.
745 ILCS 49/, Good Samaritan Act.
23 Ill.Admin.Code §§ 22.20, 226.800, and Part 525.
77 Ill.Admin.Code §527.800.
- CROSS REF.: 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 4:160 (Environmental Quality of Buildings and Grounds), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:250 (Leaves of Absence), 6:15 (School Accountability), 6:20 (School Year Calendar and Day), 6:50 (School Wellness), 6:160 (English Learners), 7:10 (Equal Educational Opportunities), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:270 (Administering Medicines to Students), 7:285 (Food Allergy Management Program), 7:290 (Suicide and Depression Awareness and Prevention), 7:305 (Student Athlete Concussions and Head Injuries)
- ADMIN. PROC.: 4:160-AP (Environmental Quality of Buildings and Grounds), 4:170-AP6 (Plan for Responding to a Medical Emergency at an Indoor Physical Fitness Facility), 5:100-AP (Staff Development Program), 5:150-AP (Personnel Records), 6:120-AP4 (Care of Students with Diabetes), 7:250-AP1 (Measures to Control the Spread of Head Lice at School)

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

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

⁶ Required by 105 ILCS 5/2-3.166(c)(2), amended by P.A. 99-443.

Professional Personnel

Teacher Qualifications ¹

A teacher, as the term is used in this policy, refers to a District employee who is required to be licensed under State law.² The following qualifications apply:

1. Each teacher must: ³
 - a. Have a valid Illinois Professional Educator License issued by the State Superintendent of Education with the required endorsements as provided in the School Code.
 - b. Provide the District Office with a complete transcript of credits earned in institutions of higher education.
 - c. On or before September 1 of each year, unless otherwise provided in an applicable collective bargaining agreement, provide the District Office with a transcript of any credits earned since the date the last transcript was filed.
 - d. Notify the Superintendent of any change in the teacher's transcript.
2. All teachers working in a program supported with federal funds under Title I, Part A must meet applicable State certification and licensure requirements. ⁴

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

² 105 ILCS 5/21B ~~et seq.~~, ~~amended by P.A. 100-596~~; 23 Ill.Admin. Code §1.610 ~~et seq.~~, §1.705 ~~et seq.~~ and Part 25, ~~amended at 42 Ill.Reg. 8830~~.

School boards may participate in the Illinois Teacher Corps; however as of ~~Sept. 1, 2009~~ 1-11 individuals may no longer be admitted to Illinois Teacher Corps programs. ~~(105 ILCS 5/21-11.4, repealed on June 30, 2006-30-13).~~

³ Subparagraph 1a is required for all teachers by 105 ILCS 5/21B-15 (qualifications of educators). ~~Three~~^{Four} types of educator licenses are listed in 105 ILCS 5/21B-20, ~~amended by P.A. 100-596~~: (1) Professional Educator License; (2) Educator License with Stipulations (including endorsements for ~~provisional educator~~, alternative provisional educator, alternative provisional superintendent, ~~resident teacher~~, career and technical educator, provisional career and technical educator, transitional bilingual educator, language, visiting international educator, paraprofessional educator, ~~and~~ chief school business official, ~~provisional in-state educator, school support personnel intern, and special education area~~); and (3) Substitute Teaching License; and (4) until 6-30-23, Short-Term Substitute Teaching License. ~~Districts may not require an individual who holds a valid Professional Educator License or Educator License with Stipulations to seek or hold a Substitute Teaching License to teach as a substitute teacher. 105 ILCS 5/21B-20(3), added by P.A. 100-596. See also 23 Ill.Admin.Code §1.610 et seq., §1.705 et seq. and Part 25, amended at 42 Ill.Reg. 8830 (per §25.100, teachers are no longer endorsed in any course subjects in which they earn grades lower than a "C" in college). The Ill. State Board of Education's (ISBE)'s Educator Licensure Information System (ELIS) is a web-based system that allows educators, administrators, and the public to access licensure information. See www.isbe.net/Pages/Educator-Licensure-Information-System.aspx.~~

Subparagraph 1b and 1c are required of all teachers by 105 ILCS 5/24-23. Some boards add the word "official" to the phrase, "complete official transcript of credits."

Subparagraph 1d is optional but informs the superintendent when a teacher may be eligible to change lanes on the salary schedule.

⁴ The *highly qualified* teacher requirement of the No Child Left Behind Act, formerly found in §6319 of the Elementary and Secondary Education Act (ESEA, 20 U.S.C. §6319), was repealed by the Every Student Succeeds Act (ESSA, Pub. L. 114-95, eff. 12-10-15). ESEA federal ~~and State~~ implementing regulations ~~at~~ 34 C.F.R. §200.55 ~~was updated on 7-7-17 (82 Fed. Reg. 31706), however State implementing regulations at and~~ 23 Ill. Admin.Code Part 25, Appendix D have not been updated ~~yet, though amendments are highly likely within the next year~~. In *Every Student Succeeds Act (ESSA) Frequently Asked Questions* (8-12-16) (www.isbe.net/Documents/ESSA-faq.pdf), ISBE advised ~~ed~~ that districts ~~did not~~ need ~~not~~ comply with the "*highly qualified*"² teacher requirement during the 2016-17 school year.

The Superintendent or designee shall:

1. Monitor compliance with State and federal law requirements that teachers be appropriately licensed; ⁵
2. Through incentives for voluntary transfers, professional development, recruiting programs, or other effective strategies, ensure that minority students and students from low-income families are not taught at higher rates than other students by unqualified, out-of-field, or inexperienced teachers; and
3. Ensure parents/guardians of students in schools receiving Title I funds are notified of their right to request their students' classroom teachers' professional qualifications. ⁶

LEGAL REF.: 20 U.S.C. §6312(e)(1)(A).
105 ILCS 5/10-20.15, 5/21-11.4, 5/21B-15, 5/21B-20, 5/21B-25, and 5/24-23.
23 Ill.Admin.Code §1.610 et seq., §1.705 et seq., and Part 25.

CROSS REF.: 6:170 (Title I Programs)

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ESEA, as amended by ESSA, requires that each state plan contain assurances that the state educational agency will ensure that all teachers and paraprofessionals meet state certification/licensure requirements. ~~(20 U.S.C. §6311(g)(2)(I)).~~

~~⁵ See the ISBE webpage on educator licensure approval requirements at www.isbe.net/Pages/educator-licensure-approvals.aspx, advises that effective July 1, 2016, teachers and paraprofessionals must meet state and local licensure requirements found in *Illinois Licensure, Endorsement, and Approval Requirements*, revised 8-25-16, at www.isbe.net/Documents/endsmt-struet.pdf.~~

ESEA, as amended by ESSA, requires districts to provide parents timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable State certification or licensure requirements at the grade level and subject area in which the teacher has been assigned. (20 U.S.C. §6312(e)(1)(B)(ii)). For a sample notice, see 5:190-E2, *Notice to Parents When Their Child Is Assigned To or Has Been Taught for at Least Four Straight Weeks By a Teacher Who Does Not Meet Applicable State Certification/Licensure Requirements*.

⁶ 20 U.S.C. §6312(e)(1)(A).

Professional Personnel

Terms and Conditions of Employment and Dismissal ¹

The School Board delegates authority and responsibility to the Superintendent to manage the terms and conditions for the employment of professional personnel. The Superintendent shall act reasonably and comply with State and federal law as well as any applicable collective bargaining agreement in effect. The Superintendent is responsible for making dismissal recommendations to the Board consistent with the Board's goal of having a highly qualified, high performing staff. ²

School Year

Teachers shall work according to the school calendar adopted by the Board, which shall have a minimum of 176 student attendance days and a minimum of 180 teacher work days, including teacher institute days.³ Teachers are not required to work on legal school holidays unless the District has followed applicable State law that allows it to hold school or schedule teachers' institutes, parent-teacher conferences, or staff development on the third Monday in January (the Birthday of Dr. Martin Luther King, Jr.); February 12 (the Birthday of President Abraham Lincoln); the first Monday in March (known as Casimir Pulaski's birthday); the second Monday in October (Columbus Day); and November 11 (Veterans' Day). ⁴

School Day

Teachers are required to work the school day adopted by the Board.⁵ Teachers employed for at least four hours per day shall receive a duty-free lunch equivalent to the student lunch period, or 30 minutes, whichever is longer. ⁶

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¹ State or federal law controls this policy's content. This policy contains items on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. The local collective bargaining agreement may contain provisions that exceed these requirements. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement."

Evaluation, tenure, and dismissals changed significantly from 2013 to 2016 as P.A.s 96-861, 97-8, and 98-513 were implemented. These public acts are referred to as *Education Reform* or *Education Reform Acts*.

² This paragraph is consistent with the IASB's *Foundational Principles of Effective Governance*. Boards have three options for using this paragraph: (1) use it as an introduction to the policy; (2) use it alone leaving the specific other topics for administrative implementation; or (3) do not use it.

³ 105 ILCS 5/10-19. See 6:20, *School Year Calendar and Day*.

⁴ 105 ILCS 5/24-2(b). See 5:330, *Sick Days, Vacation, Holidays, and Leaves*, for a holiday listing as well as a discussion of the case finding the State-mandated school holiday on "Good Friday" unconstitutional. 105 ILCS 5/24-2 prohibits districts from making a deduction "from the time or compensation of a school employee on account of any legal or special holiday."

⁵ The length of the school day is left to the board's discretion absent an individual or collective bargaining contract. Prior to the repeal of 105 ILCS 5/18-8.05(F) by P.A. 100-582, with several exceptions, the student attendance day must have been required to consist of include at least five classclock hours under theof direct teacher supervision of a teacher or non-teaching volunteer providing non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a), in order to qualify as a full day for calculating state aid entitlement. 105 ILCS 5/18-8.05 Despite the repeal of 105 ILCS 5/18-8.05(F), Ill. State Board of Education (ISBE) rules implementing it are still in effect at 23 Ill.Admin.Code §1.420(f). See ¶n 5 in policy 6:20, *School Year Calendar and Day*, for more information about ISBE's response to this law's repeal.

⁶ 105 ILCS 5/24-9.

The District accommodates employees who are nursing mothers according to provisions in State and federal law. ⁷

Salary

Teachers shall be paid according to the salaries fixed by the Board, but in no case less than the minimum salary provided by the School Code.⁸ Teachers shall be paid at least monthly on a 10- or 12-month basis. ⁹

Assignments and Transfers

The Superintendent is authorized to make teaching, study hall, extra class duty, and extracurricular assignments.¹⁰ In order of priority, assignments shall be made based on the District's needs and best interests, employee qualifications, and employee desires.

School Social Worker Services Outside of District Employment

School social workers may not provide services outside of their District employment to any student(s) attending school in the District. *School social worker* has the meaning stated in 105 ILCS 5/14-1.09a. ¹¹

Dismissal

The District will follow State law when dismissing a teacher. ¹²

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⁷ 740 ILCS 137/; 820 ILCS 260/4, amended by P.A. 100-1003. Ill. law requires more of employers than federal law. Consult the board attorney to ensure the district is properly accommodating nursing mothers. See 5:10-AP, *Workplace Accommodations for Nursing Mothers*.

⁸ 105 ILCS 5/10-20.7, 5/10-21.1, 5/24-1, and 5/24-8 (minimum salary). Salaries are a mandatory subject of collective bargaining. 115 ILCS 5/10. Annually, by Oct. 1, each district must: (1) during an open school board meeting, report salary and benefits information for the superintendent, administrators, and teachers; (2) publish that information on the district's website, if any; and (3) provide this information to ISBE. 105 ILCS 5/10-20.47. According to a Public Access Counselor (PAC)'s *Informal Mediation* letter interpreting Sec. 7.3 of the Open Meetings Act (OMA) (5 ILCS 120/7.3), an IMRF employer must post on its website the names of employees having a total compensation package that exceeds \$75,000 per year. 2012 PAC 19808 (*Informal Mediation by the Ill. Attorney General's Public Access Counselor (PAC); see PAC Annual Report for 2012 at foia.ilattorneygeneral.net/pdf/Public_Access_Counselor_Annual_Report_2012.pdf*).

⁹ 105 ILCS 5/24-21.

¹⁰ Districts are required to have a policy on the distribution of the listed assignments. 23 Ill.Admin.Code §1.420(d).

Absent an individual or collective bargaining agreement, the board has unilateral discretion to assign or retain a teacher to or in an extracurricular duty. *Betebanner v. Bd. of Educ.*, 336 Ill.App. 448 (4th Dist. 1949); *Dist. 300 Educ. Assoc. v. Bd. of Educ.*, 31 Ill.App.3d 550 (2nd Dist. 1975); *Lewis v. Bd. of Educ.*, 181 Ill.App. 3d 689 (5th Dist. 1989).

¹¹ Optional. This subhead provides information to district employees and the community that 105 ILCS 5/14-1.09a, amended by P.A. 100-356, prohibits school social workers from moonlighting by providing services to students attending the districts in which they are employed. Delete "5/10-20.60, 5/14-1.09a," from the Legal References if the board deletes this subhead.

¹² All dismissal laws in the chart below were amended by P.A.s 96-861, 96-1423, 97-8 and/or 98-513 (eff. 1-1-2014).

Non-tenure Teacher Discharge	105 ILCS 5/24-11
Tenured and Non-tenure Teachers Reduction in Force	105 ILCS 5/24-12(b) and (c)
Tenured Teacher Discharge Where Cause Remediable	105 ILCS 5/24-12(d) (prior reasonable warning required) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
Tenured Teacher Discharge Where Cause Irremediable	105 ILCS 5/24-12(d) (no prior warning required) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)

Evaluation

The District's teacher evaluation system will be conducted under the plan developed pursuant to State law. 13

On an annual basis, the Superintendent will provide the Board with a written report which outlines the results of the District's teacher evaluation system.

LEGAL REF.: 105 ILCS 5/10-19, 5/10-20.60 (P.A. 100-356, final citation pending), 5/14-1.09a, 5/18-8, 5/22.4, 5/24-16.5, 5/24-2, 5/24-8, 5/24-9, 5/24-11, 5/24-12, 5/24-21, 5/24A-1 through 24A-20.
820 ILCS 260/1 et seq.
23 Ill.Admin.Code Parts 50 (Evaluation of Certified Employees) and 51 (Dismissal of Tenured Teachers).
Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532(1985).

CROSS REF.: 5:290 (Employment Termination and Suspensions), 6:20 (School Year Calendar and Day)

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Tenured Teacher Discharge Failure to complete remediation plan with a rating of <i>Proficient</i>	105 ILCS 5/24A-5(m) (participation in remediation plan after unsatisfactory evaluation) 105 ILCS 5/24-12(d)(1) (no prior warning required if cause(s) were subject of remediation plan) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
Tenured Teacher Discharge - Optional Alternative Evaluative Dismissal Process for PERA Evaluation Failure to complete remediation plan with a <i>Proficient</i> or better rating 105 ILCS 5/24A-2.5.	105 ILCS 5/24-16.5(d) (provide written notice) 105 ILCS 5/24-16.5 (pre-remediation and remediation procedural mandates) 105 ILCS 5/24-16.5(e) and (f) (school board makes final decision with only PERA-trained board members participating in vote)
Tenured Teacher Discharge <i>Unsatisfactory</i> PERA evaluation within 36 months of completing a remediation plan 105 ILCS 5/24A-2.5	105 ILCS 5/24A-5(n) (forego remediation and proceed to dismissal) 105 ILCS 5/24-12(d) (procedural mandates) 105 ILCS 5/10-22.4 (general authority)
Educational Support Personnel Employees (non-certificated)	105 ILCS 5/10-23.5 (not affected by P.A.s 96-861 and 97-8)
Probationary Teacher (non-tenure teacher)	105 ILCS 5/24-11

Various components of a RIF (e.g., impact and decision to RIF) and an evaluation plan (e.g., development, implementation, and impact) may be subject to mandatory collective bargaining. Central City Educ. Assoc. v. IELRB, 149 Ill.2d 496 (Ill. 1992).

Teacher RIF procedures were changed ~~in 2011 and 2013 by~~ 105 ILCS 5/24-12. See *PERA Overview for School Board Members*, question 134, "~~How has~~What is the process for selecting teachers for a reduction in force/layoff (RIF) ~~changed?~~" at: iasb.com/law/pera.cfm.

According to a binding opinion from the Ill. Public Access Counselor, a board must identify an employee by name in a motion to dismiss him or her. PAO 13-16. As this may be a significant change in practice with possible other legal consequences, a board should consult with the board attorney on this issue before dismissing employee.

13 Teacher evaluation plans are covered in *PERA Overview for School Board Members* at: iasb.com/law/pera.cfm.

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.
- 2.3. 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, 2020, a substitute teacher who

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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 finger-print based criminal history records check. See also 5:30-AP2, *Administrative Procedure - Investigations*. Each board must require new substitute teacher employees to furnish evidence of physical fitness to perform duties assigned a physical examination 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), added by 41 Ill.Reg. 6924, 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), amended at 42 Ill.Reg. 8884.

³ Substitute teaching licenses are governed by 105 ILCS 5/21B-20(3), amended by P.A. 100-596; and 23 Ill.Admin.Code §§-1.790, amended at 42 Ill.Reg. 11551; and 23 Ill.Admin.Code §25.520, amended at 42 Ill.Reg. 8930.

⁴ Professional educator licenses are governed by 105 ILCS 5/21B-20(1) and 23 Ill.Admin.Code Part 25, amended at 42 Ill.Reg. 8830.

⁵ Educator licenses with stipulations are governed by 105 ILCS 5/21B-20(2), amended by P.A. 100-596, and 23 Ill.Admin.Code Part 25, amended at 42 Ill.Reg. 8830. 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.

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. 100-596 (specifying permissible paid days and hours for TRS annuitants), and 16-150.1, amended by P.A. 100-743 (TRS annuitants may return to teaching in a subject shortage area until 6-30-19). 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 5/10-20.67 (final citation pending), 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 ¶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 ¶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.

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

LEGAL REF.: 105 ILCS 5/10-20.67 (P.A. 100-596, final citation pending), 5/21B-20(2), and 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)

Professional Personnel

Maintaining Student Discipline ¹

Maintaining an orderly learning environment is an essential part of each teacher's instructional responsibilities. A teacher's ability to foster appropriate student behavior is an important factor in the teacher's educational effectiveness. The Superintendent shall ensure that all teachers, other certificated employees, and persons providing a student's related service(s): (1) maintain discipline in the schools as required in the School Code, and (2) follow the School Board policies and administrative procedures on student conduct, behavior, and discipline.

When a student's behavior is unacceptable, the teacher should first discuss the matter with the student, if appropriate.² If the unacceptable behavior continues, the teacher should consult with the Building Principal and/or discuss the problem with the parent(s)/guardian(s). A teacher may remove any student from the learning setting whose behavior interferes with the lessons or participation of fellow students.³ A student's removal must be in accordance with Board policy and administrative procedures.

Teachers shall not use disciplinary methods that may be damaging to students, such as ridicule, sarcasm, or excessive temper displays. Corporal punishment (including slapping, paddling, or prolonged maintenance of a student in physically painful positions, and intentional infliction of bodily harm) may not be used. Teachers may use reasonable force as needed to keep students, school personnel, and others safe, or for self-defense or defense of property.⁴

LEGAL REF.: 105 ILCS 5/24-24.
23 Ill.Admin.Code §1.280.

CROSS REF.: 2:150 (Committees), 7:190 (Student Behavior), 7:230 (Misconduct by Students with Disabilities)

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

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

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements for employees covered by it. If this policy's subject matter is superseded by a bargaining agreement, the board policy can state, "Please refer to the applicable collective bargaining agreement." For employees not covered by a collective bargaining agreement, the policy should reflect the board's current practice.

² School officials determine whether a behavioral intervention is *appropriate*. See 105 ILCS 5/10-22.6(b-20), amended by P.A. 99-456.

³ Teachers must be given the authority to remove disruptive students from the classroom. 105 ILCS 5/24-24.

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. Consult the board attorney regarding whether a teacher needs to be present for an in-school suspension program overseen by a school social worker or licensed mental health professional, and whether other licensed school support personnel (such as a school counselor or school psychologist) may oversee an in-school suspension program.

⁴ Required by 105 ILCS 5/24-24. See sample policy 7:190, *Student Behavior*, for a discussion of corporal punishment.

Educational Support Personnel

Schedules and Employment Year 1

The Superintendent shall supervise a process for setting work schedules and an employment year for educational support employees in accordance with State and federal law, School Board policy, and applicable agreements and shall:

1. Assign each employee one supervisor who will establish a work schedule, including breaks, as required by building or District needs, work load, and the efficient management of human resources;
2. Allow for the ability to respond to changing circumstances by altering work schedules as needed; and
3. Consider the well-being of the employee. The Superintendent's approval is required to establish a flexible work schedule or job-sharing.

Breaks

An employee who works at least 7.5 continuous hours shall receive a 30-minute duty-free meal break that begins within the first five hours of the employee's workday.² The District accommodates employees who are nursing mothers according to State and federal law.³

LEGAL REF.: Fair Labor Standards Act, 29 U.S.C. §207 *et seq.*
 105 ILCS 5/10-20.14a, 5/10-22.34, and 5/10-23.5.
 740 ILCS 137/, Right to Breastfeed Act.
 820 ILCS 105/, Minimum Wage Law.
 820 ILCS 260/, Nursing Mothers in the Workplace Act.

CROSS REF.: 5:35 (Compliance with the Fair Labor Standards Act)

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

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

This policy's provisions should be customized to meet the district's needs. The local collective bargaining agreement may contain provisions that exceed these requirements. If a collective bargaining agreement contains a provision that supersedes the policy, for those covered employees, the policy should state: "Please refer to the applicable collective bargaining agreement." For employees not covered, the policy should reflect the board's current practice.

The standards listed should be customized to reflect the local board's desires and/or district practices.

² This is the minimum required by 105 ILCS 5/10-20.14a.

³ School districts must accommodate mothers who choose to continue breastfeeding after returning to work. See the Right to Breastfeed Act, 740 ILCS 137/; Nursing Mothers in the Workplace Act, 820 ILCS 260/, *amended by P.A. 100-1003*; and Fair Labor Standards Act, 29 U.S.C. §207(r), added by P.L. 111-148. See sample language for a personnel handbook in 5:10-AP, *Administrative Procedure - Workplace Accommodations for Nursing Mothers*.

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

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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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. 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. 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 *Metzl 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.

³ The school calendar must have a minimum 185 days to ensure 176 days of actual pupil attendance. 105 ILCS 5/10-19 and 5/24-1; 23 Ill.Admin.Code §1.420. 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.

⁴ 105 ILCS 5/24-2(c) lists the following as commemorative holidays: 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);ⁱ Oct. 7 (Iraq and Afghanistan Veterans Remembrance Day);ⁱⁱ and Dec. 7 (Pearl Harbor Veterans' Day).

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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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); a Day of Remembrance on Sept. 11 (5 ILCS 490/86); 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); 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 as Emancipation Proclamation Week (5 ILCS 490/160.55); the third Thursday in May of each year is designated Volunteer-Emergency-Responder-Appreciation Day (5 ILCS 490/126); and Mother Mary Ann Bickerdyke Day on the second Wednesday in May (5 ILCS 490/175).

⁵ Prior to the repeal of 105 ILCS 5/18-8.05(F) by P.A. 100-582, A school day must have been required to consist of a minimum five clock hours under the direct supervision of a teacher or non-teaching volunteer providing non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a), in order to qualify as a full day for calculating state aid entitlement. Despite the repeal of 105 ILCS 5/18-8.05(F), Ill. State Board of Education (ISBE) rules implementing it are still in effect at: 23 Ill.Admin.Code §1.420(f). Students in attendance for fewer than two hours of school work are not counted for calculating average daily attendance. 23 Ill.Admin.Code §1.420(f)(4). Note: ISBE has indicated it will not be proposing legislation to address the content once addressed by 105 ILCS 5/18-8.05(F), and that what constitutes a school day is at the discretion of local school districts. School districts may no longer count days of attendance less than five clock hours on the opening and closing of the school term, and upon the first day of pupil attendance, if preceded by a day or days utilized as an institute or teachers' workshop. 105 ILCS 5/18-8.05(F)(1), amended by P.A. 100-147, eff. 1-1-18, requires districts to report to ISBE, their average daily attendance figures for each month of the school year, broken down by grade level.

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. Exceptions also exist for kindergarten, teaching-hospitalized or homebound students, first-grade, disabled children less than six years old, in-service training for teachers in accordance with 105 ILCS 5/10-22.39, parent-teacher conferences, and days when the Prairie State Achievement Examination is administered (105 ILCS 5/18-8.05(F)).

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 Consolidated 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.

LEGAL REF.: 105 ILCS 5/10-19, 5/10-24.46, ~~5/18-8.05~~, 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.
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).

Commented [MB1]: Repealed by 100-582, eff. 3-23-18.

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

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

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 5/10-24.46 requires a moment of silence to recognize veterans during any type of event held at a district school on Nov. 11. See ¶n 2 above for more discussion.

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 improv[ing] nutrition and public health, as well as strengthen[ing] local agricultural economies by increasing access to and promoting the consumption of locally grown fruits and vegetables in schools and increasing physical activities and programs that promote pupil wellness." 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><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.

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.

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

Goals for Physical Activity ⁸

The goals for addressing physical activity include the following:

- Schools will support and promote an active lifestyle for students.

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

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 education at: healthymeals.fns.usda.gov/nutrition-education-9~~

~~2.1. Nutritional promotion at: healthymeals.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/nutrition-promotion~~

~~3.2. 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).

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).

- 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 Prohibited¹²

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

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

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⁹ 105 ILCS 5/27-5 and 27-6; 23 Ill.Admin.Code §1.425, (amended at 420 Ill. Reg. 115402990). See also f/n 19-27 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.*

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: www.isbe.net/Pages/Physical-Education-and-Health.aspx www.isbe.net/Pages/PE-Health-Learning-Standards.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* at: www.isbe.net/Pages/PE-Health-Learning-Standards.aspx. See also 23 Ill.Admin.Code §1.425 (f), (g), 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> 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.

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).

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

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),

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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.

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*.

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

Monitoring 20

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).²¹ 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 22

The Board will monitor and adjust the policy pursuant to policy 2:240, *Board Policy Development*.

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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 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.

21 7 C.F.R. §210.31(e)(2)(i)-(iii) and (3).

22 *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 23

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*. 24

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23 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."

24 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 25

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 Act of 1966, 42 U.S.C. §1771 et seq.
National School Lunch Act, 42 U.S.C. §1751 et seq.
Healthy, Hunger-Free Kids Act of 2010, 42 U.S.C. §1758b, Pub. L. 111-296.
42 U.S.C. §1779, as implemented by 7 C.F.R. §§210.11 and 210.31.
Local Records Act, 50 ILCS 205/
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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25 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."

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.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 Before the completion of grade 5, students will be offered at least one unit of cursive instruction.⁶
2. In grades 9 through 12, subjects include:⁷ (a) language arts, (b) writing intensive course, (c) science, (d) mathematics,⁸ (e) social studies including U.S. history, American government

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¹ Districts must have a policy on physical education (23 Ill.Admin.Code §1.4250(p), 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, ~~eff. 7-1-18~~). 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.

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 <https://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. 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 5/27-20.7, added by P.A. 100-548, ~~eff. 7-1-18~~, 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) _____.

⁷ 105 ILCS 5/27-22; 23 Ill.Admin.Code §1.440.

⁸ 105 ILCS 5/2-3.156. See f/n 2.

and, for students entering the 9th grade in the fall of 2016 and each year after it, one semester of civics,⁹ (f) foreign language,¹⁰ (g) music, (h) art, (i) driver and safety education,¹¹ and (j) vocational education.¹²

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 the student's best interest.¹³ 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,¹⁴ (ba) classroom instruction on distracted driving as a major traffic safety issue,¹⁵ (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,¹⁶ and (db) 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.¹⁷ 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.¹⁸ The eligibility requirements

Commented [BZ1]: This footnote was broken into footnotes 7, 10 and 11.

Commented [BZ2]: The driver's education course requirements added to this policy are not new. They have been added to make the policy's discussion of the course more comprehensive.

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105 ILCS 5/27-22(e)(3) 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*.

⁹ 105 ILCS 5/27-22, amended by P.A. 99-434 and P.A. 99-486. The statute specifically states that school districts may utilize private funding available for offering civics education.

¹⁰ The General Assembly encouraged school boards to implement American Sign Language courses into the school foreign language curriculum. 105 ILCS 5/10-20.32. Senate Joint Resolution 68 (96th General Assembly, 2010) encourages school districts to explore the introduction of Arabic as a foreign language in their curriculums.

¹¹ 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. 100-465. To qualify to contract with a school district, a CDTS must: (a) hold a valid license issued by the Ill. Sec. of State; and (b) provide instructors who hold a valid Ill. teaching certificate or license. *Id.* A district contracting with a CDTS must provide a list to ISBE of the CDTS instructors. *Id.* The list must include the name, personal ISBE identification number, birth date and driver's license number of each instructor who will teach driver education. *Id.* 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.

¹² 23 Ill.Admin.Code § 1.440, 105 ILCS 5/27-22. The General Assembly encouraged school boards to implement American Sign Language courses into the school foreign language curriculum. 105 ILCS 5/10-20.32. Senate Joint Resolution 68, 96th General Assembly, encourages school districts to explore the introduction of Arabic as a foreign language in their curriculum. 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. 100-465. To qualify to contract with a school district, a CDTS must: (a) hold a valid license issued by the Ill. Sec. of State; and (b) provide instructors who hold a valid Ill. teaching certificate or license. *Id.* A district contracting with a CDTS must provide a list to ISBE of the CDTS instructors. *Id.* The list must include the name, personal ISBE identification number, birth date and driver's license number of each instructor who will teach driver education. *Id.* 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.

¹³ 105 ILCS 5/27-24.2, amended by P.A. 100-465.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*, amended by P.A. 99-720.

¹⁸ 105 ILCS 5/27-17.

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. ¹⁹

3. In grades 7 through 12, as well as in interscholastic athletic programs, steroid abuse prevention must be taught. ²⁰
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. ²¹
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. ²²
6. In all grades, character education must be taught including respect, responsibility, fairness, caring, trustworthiness, and citizenship in order to raise students' honesty, kindness, justice, discipline, respect for others, and moral courage. ²³

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¹⁹ 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.

²⁰ 105 ILCS 5/27-23.3.

²¹ 105 ILCS 5/27-23.4.

²² 47 C.F.R. § 54.520(e)(4)(i) and 105 ILCS 5/27-13.3 control this section. "Grades kindergarten through 12" is used because federal law requires school districts that receive E-rate funding to certify that they have an Internet safety education policy for all minors. 47 C.F.R. §54.520(c)(1)(i). This federal law defines *minors* as any individual who has not attained the age of 17 years. 47 C.F.R. §54.520(a)(4)(i).

105 ILCS 5/27-13.3 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."

²³ 105 ILCS 5/27-12.

Because of the negative outcomes associated with bullying in schools, the Ill. General Assembly has also found "that [school districts] should educate students, parents, and [school district personnel] about what behaviors constitute prohibited bullying." 105 ILCS 5/27-23.7(a). A board may want to add the following option:

Instruction in all grades should include educating students about behaviors that violate Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

7. In all schools, citizenship values must be taught, including: (a) patriotism, (b) democratic principles of freedom, justice, and equality, (c) proper use and display of the American flag, (d) the Pledge of Allegiance, and (e) the voting process. ²⁴
8. In all grades, physical education must be taught including a developmentally planned and sequential curriculum that fosters the development of movement skills, enhances health-related fitness, increases students' knowledge, offers direct opportunities to learn how to work cooperatively in a group setting, and encourages healthy habits and attitudes for a healthy lifestyle. Unless otherwise exempted, all students are required to engage in a physical education course with such frequency as determined by the Board after recommendation from the Superintendent,²⁵ but at a minimum of three days per five-day week.²⁶ 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*. ²⁷
9. In all schools, health education must be stressed, including: (a) proper nutrition, (b) physical fitness, (c) components necessary to develop a sound mind in a healthy body, (d) dangers and avoidance of abduction, and (e) age-appropriate sexual abuse and assault awareness and

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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."

²⁴ 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. Requirements for displaying a U.S. flag at each school and in each classroom are found in 5 ILCS 465/3 and 465/3a.

Note that the Illinois statute does not require every student to recite the *Pledge* – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the *Pledge*, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the *Pledge*. *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624 (1943); *Sherman v. Community Consolidated 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.

²⁵ 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.

²⁶ 23 Ill. Admin. Code § 1.425(b), amended at 42 Ill. Reg. 11540.

²⁷ 105 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:

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 www.isbe.net/Pages/PE-Health-Learning-Standards.aspx. See also 23 Ill. Admin. Code § 1.425 (g) and (h), amended at 42 Ill. Reg. 11540; ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers* (Rev. 2-15-18 ~~5/22/17~~) at: www.isbe.net/Documents/fitness-asmt-faq.pdf.

105 ILCS 5/27-7 describes the goals and requirements for P.E. courses; these are re-stated in this sample policy.

prevention education in all grades. The Superintendent shall implement a comprehensive health education program in accordance with State law. ²⁸

10. In all schools, career/vocational education must be taught, including: (a) the importance of work, (b) the development of basic skills to enter the world of work and/or continue formal education, (c) good work habits and values, (d) the relationship between learning and work, and (e) if possible, a student work program that provides the student with work experience as an extension of the regular classroom. A career awareness and exploration program must be available at all grade levels. ²⁹
11. In grades 9 through 12, consumer education must be taught, including: (a) financial literacy, including consumer debt and installment purchasing (including credit scoring, managing credit debt, and completing a loan application); budgeting; savings and investing; banking (including balancing a checkbook, opening a deposit account, and the use of interest rates); understanding simple contracts; State and federal income taxes; personal insurance policies; the comparison of prices; higher education student loans; identity-theft security; and homeownership (including the basic process of obtaining a mortgage and the concepts of fixed and adjustable rate mortgages, subprime loans, and predatory lending); and (b) the roles of consumers interacting with agriculture, business, labor unions and government in formulating and achieving the goals of the mixed free enterprise system. ³⁰
12. In all schools, conservation of natural resources must be taught, including: (a) home ecology, (b) endangered species, (c) threats to the environment, and (d) the importance of the environment to life as we know it. ³¹
13. In all schools, United States history must be taught, including: (a) the principles of representative government, (b) the Constitutions of the U.S. and Illinois, (c) the role of the U.S. in world affairs, (d) the role of labor unions, and (e) the role and contributions of ethnic groups, including but not limited to, the African Americans, Albanians, Asian Americans,

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²⁸ 105 ILCS 110/3 and 23 Ill.Admin.Code §1.420(n). Each school system shall provide a program in compliance with the Critical Health Problems and Comprehensive Health Education Act, 105 ILCS 110/. More detailed health education program content is described in administrative procedure 6:60-AP, *Comprehensive Health Education Program*. It includes the requirements for the development of a family life and sex education program (105 ILCS 5/27-9.1, amended by P.A. 100-684, and 110/3), among other health education topics 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).

Citations for letters (a) - (e) in this paragraph follow:

(a) 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7 (proper nutrition) and see also policy 6:50, *School Wellness*.

(b) *Id.* (physical fitness) and see also policy 6:50, *School Wellness*.

(c) *Id.* (sound mind and healthy body).

(d) 105 ILCS 5/27-13.2 (dangers and avoidance of abduction). The 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 *a/k/a Erin's Law* (child sexual abuse prevention). *Erin's Law* requires a policy addressing child sexual abuse prevention. A sentence in 6:60-AP, *Comprehensive Health Education Program* restates the basic recommendations for a child sexual abuse prevention program from page 16 of the *Erin's Law Taskforce Final Report* (Report) to Governor Quinn at: www.isbe.net/Documents/erins-law-final0512.pdf. The professional educator training component of *Erin's Law* is addressed in policy 5:100, *Staff Development Program*. The Report also encourages parental involvement because parents play a key role in protecting children from child sexual abuse.

²⁹ 23 Ill.Admin.Code §1.420(i). See 105 ILCS 435/-~~for the~~ Vocational Education Act.

³⁰ 105 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.

³¹ 105 ILCS 5/27-13.1; 23 Ill.Admin.Code §1.420(l), amended at 42 Ill. Reg. 11535.

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. ³²

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. ³³

14. In grade 7 and all high school courses concerning U.S. history or a combination of U.S. history and American government, students must view a Congressional Medal of Honor film made by the Congressional Medal of Honor Foundation, provided there is no cost for the film. ³⁴
15. In all schools, the curriculum includes ~~a unit of instruction~~ 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. ³⁵
16. In all schools, the curriculum includes ~~a unit of~~ instruction as determined by the Superintendent or designee on the history, struggles, and contributions of women. ³⁶
17. In all schools, the curriculum includes ~~a unit of~~ instruction as determined by the Superintendent or designee on Black History, including the history of the African slave trade, slavery in America, and the vestiges of slavery in this country, as well as the struggles and contributions of African-Americans. ³⁷
18. In all schools offering a secondary agricultural education program, the curriculum includes courses as required by 105 ILCS 5/2-3.80. ³⁸

Commented [B23]: While the respective statutes are unchanged on the matter, footnotes 32, 33, and 34 now clarify that a *unit of instruction* is to be determined by the school board delegating the matter to the Superintendent as in 19.

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³² 105 ILCS 5/27-21; 23 Ill.Admin.Code §1.420(r).

³³ 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."

³⁴ 105 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.

³⁵ 105 ILCS 5/27-20.3. ~~The statute requires the school board to determine the minimum amount of instructional time, requires the curriculum to include a unit of instruction on this subject but does not specify the amount of time that constitutes a unit of instruction. The sample policy complies by delegating this responsibility to the superintendent or designee.~~

³⁶ 105 ILCS 5/27-20.5. ~~The statute requires the school board to determine the minimum amount of instructional time, requires the curriculum to include a unit of instruction on this subject but does not specify the amount of time that constitutes a unit of instruction. 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.

³⁷ 105 ILCS 5/27-20.4. ~~The statute requires the school board to determine the minimum amount of instructional time, requires the curriculum to include a unit of instruction on this subject but does not specify the amount of time that constitutes a unit of instruction. 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.~~

³⁸ 105 ILCS 5/2-3.80(e) or (f), as applicable.

19. In all schools, instruction during courses as determined by the Superintendent or designee on disability history, awareness, and the disability rights movement. ³⁹
20. 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. ⁴⁰

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), 5/27-3, 5/27-3.5, 5/27-5, 5/27-6, 5/27-6.5, 5/27-7, 5/27-12, 5/27-12.1, 5/27-13.1, 5/27-13.2, 5/27-20.3, 5/27-20.4, 5/27-20.5, 5/27-20.7, 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, 5/27-24.2, 435/, and 110/3.
 625 ILCS 5/6-408.5.
 23 Ill.Admin.Code §§1.420, 1.425, 1.430, and 1.440.
Consolidated Appropriations Act of 2005, Pub. L. No. 108-447, Section 111 of Division J.
Protecting Children in the 21st Century Act, Pub. L. No. 110-385, Title II, 122 stat. 4096 (2008).
47 C.F.R. §54.520.

CROSS REF.: 6:20 (School Year Calendar and Day), 6:40 (Curriculum Development), 6:70 (Teaching About Religions), 6:235 (Access to Electronic Networks), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:260 (Exemption from Physical Education)

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³⁹ 105 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.

⁴⁰ 105 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-AP, E2, Resources for Biking and Walking Safety Education, for additional information.

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*; 5:125, *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,

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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 16 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).

Prevention of and Response to Bullying, Intimidation, and Harassment; 7:190, *Student Behavior*; and 7:340, *Student Records*. 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
 - 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*.

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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 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*.

⁸ 23 Ill.Admin.Code §22.20 and 105 ILCS 5/21B-75, amended by P.A. 99-456.

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 Use ⁹

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, *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.

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)

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

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 ~~courses~~ 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), amended by P.A. 99-189; 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 ISBE the number of students enrolled in accredited courses at any ~~community college~~CC along with the name(s) and number(s) of the course(s) each student is taking.

⁴ The Dual Credit Quality Act (110 ILCS 27/) defines dual credit as a college course taken by a high school student for credit at both the college and high school level. 110 ILCS 27/5 and 105 ILCS 5/10-20.62(a), amended by P.A. 100-792, eff. 1-1-19. 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, eff. 1-1-19. Dual credit programs will 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, eff. 1-1-19), 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, eff. 1-1-19.

5. Foreign language courses taken in an ethnic school program approved by the Illinois State Board of Education ⁵
6. Work-related training at manufacturing facilities or agencies in a ~~Youth Apprenticeship Vocational Education~~ **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.

Substitutions for Required Courses

Vocational or technical education; registered apprenticeship program.⁸ A student in grades 9-12 may satisfy one or more high school courses (including physical education) or graduation

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~~After 1-1-19, 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, eff. 1-1-19. 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)'s statewide longitudinal data system (see the P-20 Longitudinal Education Data System Act, 105 ILCS 13/, for more information).

~~105 ILCS 5/10-20.620 (final citation pending), added by P.A. 100-133 and renumbered by P.A. 100-792, eff. 1-1-19, eff. 1-1-18, 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 ~~community college~~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, eff. 1-1-19. 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, eff. 1-1-19.~~

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 ~~youth apprenticeship-vocational education programs~~**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 ~~community college~~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.

requirements by successfully completing related vocational or technical education courses or a registered apprenticeship program if:

1. The Building Principal approves the substitution and the vocational or technical education course is completely described in curriculum material along with its relationship to the required course; and
2. The student's parent/guardian requests and approves the substitution in writing on forms provided by the District.

Advanced placement computer science.⁹ The advanced placement computer science course is equivalent to a high school mathematics course. A student in grades 9-12 may substitute the advanced placement computer science course for one year of mathematics, in accordance with Section 27-22 of the School Code. The transcript of a student who completes the advanced placement computer science course will state that it qualifies as a mathematics-based, quantitative course.

Substitutions for physical education. A student in grades 9-12, unless otherwise stated, may submit a written request to the Building Principal to be excused from physical education courses for the reasons stated below.¹⁰ The Superintendent or designee shall maintain records showing that the criteria set forth in this policy were applied to the student's individual circumstances, as appropriate.¹¹

1. Ongoing participation in a marching band program for credit;¹²
2. Enrollment in Reserve Officer's Training Corps (ROTC) program sponsored by the District;¹³
3. Ongoing participation in an *interscholastic or extracurricular athletic program*;¹⁴

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⁸ Allowing 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. 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*.

105 ILCS 5/2-3.173, added by P.A. 100-992, establishes a registered apprenticeship program. 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. ISBE was directed to develop rules to implement this law during the 2018-2019 school year to allow students who are 16 years of age or older to participate in registered apprenticeship programs.

⁹ Optional, but allowed by 105 ILCS 5/27-22(f-5).

¹⁰ Optional, but allowed by 105 ILCS 5/27-6(b), amended by P.A. 100-465; 23 Ill.Admin.Code §1.425(e~~f~~), amended at 42 Ill. Reg. 11542-43. 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.

¹¹ 23 Ill.Admin.Code §1.425(e~~f~~), amended at 42 Ill. Reg. 11542-43.

¹² 23 Ill.Admin.Code §1.425(e)(4)(A), added at 42 Ill.Reg. 11543. 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.

¹³ 23 Ill.Admin.Code §1.425(e)(4)(B), added at 42 Ill.Reg. 11543.

¹⁴ 23 Ill.Admin.Code §1.425(e)(2) and (e)(3)(A), added at 42 Ill.Reg. 11542-43.

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);¹⁵ 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).¹⁶

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.¹⁷ A student participating in the District's Volunteer Service Credit Program, if any, may earn credit toward graduation for the performance of community service. The amount of credit given for program participation shall not exceed that given for completion of one semester of language arts, math, science, or social studies.

Re-Entering Students ¹⁸

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 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

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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." *It does not require such participation to be ongoing. While the statute no longer requires such participation to be ongoing, 23 Ill.Admin.Code §1.425(e)(2), added at 42 Ill.Reg. 11542, 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.

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), added at Ill. Reg. 11543.

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.

15 23 Ill.Admin.Code §1.425(e)(3)(B), added at 42 Ill. Reg. 11542.

16 23 Ill.Admin.Code §1.425(e)(3)(C), added at 42 Ill.Reg. 11543.

¹⁷ 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.

¹⁸ 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.

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, 5/10-22.43a, 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) and (f), 1.440(f), and 1.470(c).

CROSS REF.: 6:180 (Extended Instructional Programs), 6:300 (Graduation Requirements), 6:315 (High School Credit for Students in Grade 7 or 8), 6:320 (High School Credit for Proficiency), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:260 (Exemption from Physical Education)

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 his or her religion forbids secular activity on a particular day, and (6) any child 16 years of age or older who is employed and is enrolled in a graduation incentives program.

The parent/guardian of a student who is enrolled must authorize all absences from school and notify the school in advance or at the time of the student's absence. A valid cause for absence includes illness, observance of a religious holiday, death in the immediate family, family emergency, other situations beyond the control of the student, other circumstances that cause reasonable concern to the parent/guardian for the student's safety or health, or other reason as approved by the Superintendent or designee. ³

Absenteeism and Truancy Program

The Superintendent or designee shall manage an absenteeism and truancy program in accordance with the School Code and School Board policy. The program shall include but not be limited to:

1. A protocol for excusing a student from attendance who is necessarily and lawfully employed. The Superintendent or designee is authorized to determine when the student's absence is justified. ⁴

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¹ State law requires boards to adopt a policy covering some of the topics herein and controls this policy's content. 105 ILCS 5/26-13 requires a policy identifying supportive services and available resources for *truants* and *chronic truants* (defined in 105 ILCS 5/26-2a, amended by P.A. 100-918). 23 Ill.Admin.Code §1.290 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. 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 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 who is medically unable to attend school.

³ These reasons are in 105 ILCS 5/26-2a, except that "other reason as approved by the Superintendent" was added. ISBE rule requires that the absenteeism and truancy policy defines valid causes for absence. 23 Ill.Admin.Code §1.290.

⁴ Any child "necessarily and lawfully employed" may be exempted from attendance by the superintendent "on certification of the facts by and the recommendation of the school board." 105 ILCS 5/26-1. The policy's language serves to delegate this "certification of the facts" to the superintendent or designee. The following option allows a board to consider and include specific criteria in the policy:

2. A protocol for excusing a student in grades 6 through 12 from attendance to sound *Taps* at a military honors funeral held in Illinois for a deceased veteran. ⁵
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 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. ⁶
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. ⁷
5. A process to identify and track students who are truants, chronic or habitual truants, or truant minors as defined in the School Code, Section 26-2a.
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. ⁸
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. ⁹ See Board policy 6:110,

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A student may be excused, at the Superintendent's discretion, when: (1) the student has a last period study hall, (2) the parent/guardian provides written permission, (3) the student's employer provides written verification of employment, (4) the student provides evidence of a valid work permit, or (5) other reason deemed justifiable by the Superintendent.

Child Labor laws include: 29 C.F.R. Part 570 (minimum age standards, occupations, conditions, etc.); 820 ILCS 205/ (child labor laws); 56 Ill.Admin.Code Part 250 (child labor regulations).

⁵ 105 ILCS 5/26-1, amended by P.A. 99-804. A student must notify the building principal or other administrator at least two days prior to the absence providing the date, time, and location of the military honors funeral. This requirement may be waived if the student did not receive notice at least two days in advance, but the student shall notify the administration as soon as possible of the absence.

A student whose absence is excused to sound *Taps* shall be counted in attendance for purposes of calculating the average daily attendance of students in the district. The district must allow the student reasonable time to make up school work and if school work is satisfactorily completed, the day of absence is counted as an attendance day for the student.

⁶ 105 ILCS 5/26-1, amended by P.A. 100-185. 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.

⁷ This notification is required by 105 ILCS 5/26-3b.

⁸ 23 Ill.Admin.Code §1.290(b)(2).

105 ILCS 5/10-20.630 (final citation pending), added by P.A. 100-163, ~~eff. 1-1-18~~, requires school districts to make feminine 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 school buildings serving students in grades 6 through 12. The General Assembly found this requirement necessary because "when students do not have access to affordable feminine hygiene products, they may miss multiple days of school every month." 105 ILCS 5/10-20.630(a)(3).

⁹ 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).

Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program.

8. 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. 10

8.9. A process to request the assistance and resources of outside agencies, such as, the juvenile officer of the local police department or the truant officer of the appropriate Regional Office of Education, if truancy continues after supportive services have been offered. 11

9-10. 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. 12

10-11. An acknowledgement that no punitive action, including out-of-school suspensions, expulsions, or court action, shall be taken against a ~~chronic~~-truant minor for his or her truancy unless available supportive services and other school resources have been provided to the student. 13

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105 ILCS 5/26-18, added by P.A. 100-156, ~~eff. 1-1-18~~, requires that, beginning 7-1-18, districts 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(c). 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.

10 105 ILCS 5/10-22.6(c-5), amended by P.A. 100-810, eff. 1-1-19.

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

12 105 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, *Student Records* for a sample procedure for release of such records to juvenile authorities.

13 105 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.*

~~11.12.~~ 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. ¹⁴

[For high school and unit districts only]

~~12.13.~~ A process for a 17-year-old resident to participate in the District's various programs and resources for truants.¹⁵ The student must provide documentation of his/her dropout status for 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, *Students School Admissions and Student Transfers To and From Non-District Schools*.

~~13.14.~~ A process for the temporary exclusion of a student 17 years of age or older for failing to meet minimum ~~academic or~~ attendance standards according to provisions in State law. A parent/guardian has the right to appeal a decision to exclude a student. ¹⁶

LEGAL REF.: 105 ILCS 5/26-1 through 16.
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), 7:190 (Student Behavior), 7:340 (Student Records)

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¹⁴ 105 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.

¹⁵ 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.

¹⁶ 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.

Students

Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students ¹

Required Health Examinations and Immunizations

A student's parent(s)/guardian(s) shall present proof that the student received a health examination, with proof of the immunizations against, and screenings for, preventable communicable diseases, as required by the Illinois Department of Public Health (IDPH), within one year prior to:

1. Entering kindergarten or the first grade;²
2. Entering the sixth and ninth grades;³ and
3. Enrolling in an Illinois school, regardless of the student's grade (including nursery school, special education, Head Start programs operated by elementary or secondary schools, and students transferring into Illinois from out-of-state or out-of-country).⁴

Proof of immunization against meningococcal disease is required for students in grades 6 and 12. ⁵

As required by State law:

1. Health examinations must be performed by a physician licensed to practice medicine in all of its branches, an advanced practice nurse who has a written collaborative agreement with a collaborating physician authorizing the advanced practice nurse to perform health examinations, or a physician assistant who has been delegated the performance of health examinations by a supervising physician.⁶
2. A diabetes screening is a required part of each health examination; diabetes testing is not required.⁷
3. Beginning with the 2017-2018 school year, an age-appropriate developmental screening and an age-appropriate social and emotional screening are required parts of each health

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¹ State or federal law controls this policy's content. The policy restates 105 ILCS 5/27-8.1, amended by P.A. 100-977, eff. 1-1-19. Immunization requirements are found in 77 Ill.Admin.Code §665.240, amended by 41 Ill.Reg. 2973, eff. 2-27-17. A Tuberculosis skin test is required if the student lives in an area designated by the Ill. Dept. of Public Health (IDPH) as having a high incidence of Tuberculosis. See also *Questions & Answers Regarding School Health Record Issues*, revised May 2013, and available at:

www.dhs.state.il.us/onenetlibrary/27897/documents/schoolhealth/faq_2013.pdf.

² 105 ILCS 5/27-8.1(1); ~~and~~ 77 Ill.Admin.Code §§665.140 and 665.240 et seq.

³ Id.

⁴ Id. If grade levels are not assigned, examinations must be completed within one year prior to the school year in which the child reaches the ages of five, 11, and 15. 77 Ill.Admin.Code §§665.140(b).

⁵ 410 ILCS 315/1.10; 77 Ill.Admin.Code §665.240(l). For students attending school programs where grade levels (kindergarten through 12) are not assigned, including special education programs, students must show proof that they have received one dose of meningococcal conjugate vaccine in the school year in which the child reaches age 11 and a second dose in the school year in which the child reaches age 16 (but if the first dose is administered when the child is 16 years of age or older, only one dose is required). Students eligible to remain in public school beyond grade 12 (special education) shall meet the requirements for 12th grade.

⁶ 105 ILCS 5/27-8.1(2); 77 Ill.Admin.Code §665.130 et seq.

⁷ 105 ILCS 5/27-8.1(2); 77 Ill.Admin.Code §665.700 et seq.

examination.⁸ A student will not be excluded from school due to his or her parent/guardian's failure to obtain a developmental screening or a social and emotional screening.⁹

4. Before admission and in conjunction with required physical examinations, parent(s)/guardian(s) of children between the ages of one and seven years must provide a statement from a physician that their child was *risk-assessed* or screened for lead poisoning.¹⁰

5. The IDPH will provide all ~~female~~ students entering sixth grade and their parent(s)/guardian(s) information about the link between human papilloma-virus (HPV) and ~~cervical~~ HPV-related cancers and the availability of the HPV vaccine.¹¹

- 5-6. The District will provide informational materials regarding influenza, influenza vaccinations, meningococcal disease, and meningococcal vaccinations developed, provided, or approved by the IDPH when it provides information on immunizations, infectious diseases, medications, or other school health issues to students' parent(s)/guardian(s).¹²

Unless an exemption or extension applies, the failure to comply with the above requirements by October 15 of the current school year will result in the student's exclusion from school until the required health forms are presented to the District.¹³ New students who register after October 15 of

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⁸ 105 ILCS 5/27-8.1(2), amended by P.A. 99-927, ~~eff. 6-1-17~~. The IDPH is to develop rules to implement these new screening requirements and revise the Child Health Examination form. *Id.* The health care provider must only record whether or not the social and emotional screening was completed.

⁹ 105 ILCS 5/27-8.1(2.5), amended by P.A. 99-927, ~~(eff. 6-1-17)~~. Item #3 may be supplemented with any of the following options:

Option 1: If proof of the developmental screening or the social and emotional screening portions of the health examination are not presented, qualified school support personnel may, with a parent/guardian's consent, offer the screenings to the child.

Option 2: Once a student presents proof that he or she received a developmental screening or a social and emotional screening, the school may, with a parent/guardian's consent, make available appropriate school personnel to work with the parent/guardian, child, and provider who signed the screening form to obtain any appropriate evaluations and services.

Option 3: (The use of both Option 1 and 2.)

a. If proof of the developmental screening or the social and emotional screening portions of the health examination are not presented, qualified school support personnel may, with a parent/guardian's consent, offer the screenings to the child.

b. Once a student presents proof that he or she received a developmental screening or a social and emotional screening, the school may, with a parent/guardian's consent, make available appropriate school personnel to work with the parent/guardian, child, and provider who signed the screening form to obtain any appropriate evaluations and services.

Note: Even if the district does not offer the above optional services, consult the board attorney about whether the presence of developmental or social and emotional screening information on the Child Health Examination form triggers child find obligations under the Individuals with Disabilities Education Act and/or Section 504 of the Rehabilitation Act of 1973.

¹⁰ Required by 410 ILCS 45/7.1. Physicians are required to screen children over 7 years of age for lead poisoning when, in the physician's judgment, a child is at risk. 410 ILCS 45/6.2.

¹¹ This sentence restates the requirement in the Communicable Disease Prevention Act regarding ~~cervical~~ HPV-related cancer prevention. 410 ILCS 315/2e, amended by P.A. 100-741, eff. 1-1-19.

¹² 105 ILCS 5/27-8.1(8.5), added by P.A. 100-977, eff. 1-1-19.

¹³ 105 ILCS 5/27-8.1(5) requires compliance by October 15 unless a district establishes an earlier date with 60 days notice. If an earlier date is established, replace "October 15" in this paragraph with the earlier locally established date. During any student's exclusion from school for non-compliance with this policy, the student's parent(s)/guardian(s) shall be considered in violation of 105 ILCS 5/26-1 and subject to any penalty imposed by 105 ILCS 5/26-10, as provided in 105 ILCS 5/27-8.1. 105 ILCS 5/27-8.1(2.5), amended by P.A. 99-927, ~~eff. 6-1-17~~, exempts developmental or social and emotional screenings from the exclusion from school requirement.

the current school year shall have 30 days following registration to comply with the health examination and immunization regulations.¹⁴ If a medical reason prevents a student from receiving a required immunization by October 15, the student must present, by October 15, an immunization schedule and a statement of the medical reasons causing the delay.¹⁵ The schedule and statement of medical reasons must be signed by the physician, advanced practice nurse, physician assistant, or local health department responsible for administering the immunizations.

A student transferring from out-of-state who does not have the required proof of immunizations by October 15 may attend classes only if he or she has proof that an appointment for the required vaccinations is scheduled with a party authorized to submit proof of the required vaccinations.¹⁶ If the required proof of vaccination is not submitted within 30 days after the student is permitted to attend classes, the student may no longer attend classes until proof of the vaccinations is properly submitted.¹⁷

Eye Examination¹⁸

Parent(s)/guardian(s) are encouraged to have their children undergo an eye examination whenever health examinations are required.¹⁹

Parent(s)/guardian(s) of students entering kindergarten or an Illinois school for the first time shall present proof before October 15 of the current school year that the student received an eye examination within one year prior to entry of kindergarten or the school. A physician licensed to practice medicine in all of its branches or a licensed optometrist must perform the required eye examination.

If a student fails to present proof by October 15, the school may hold the student's report card until the student presents proof: (1) of a completed eye examination, or (2) that an eye examination will take place within 60 days after October 15. The Superintendent or designee shall ensure that parent(s)/guardian(s) are notified of this eye examination requirement in compliance with the rules of

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Note: 77 Ill.Admin.Code §665.240(n), created by 41 Ill.Reg. 2973, ~~eff. 2-27-17~~, states "It is not the intent of this Part that any child whose parents comply with the intent of this Part, the Act or the School Code should be excluded from a child care facility or school. A child or student shall be considered in compliance with the law if there is evidence of the intent to comply. Evidence may be: 1) a signed statement from a health care provider that he or she has begun, or will begin, the necessary immunization procedures; or 2) the parent's or legal guardian's written consent for the child's participation in a school or other community immunization program." Consult with the board attorney about the impact this new regulation may have on the district's ability to and procedures for excluding students for non-compliance with this policy.

¹⁴ This sentence is optional. The timeframe of 30 days is a matter of local discretion except that out-of-state transfer students who fail to provide proof of the required vaccinations after 30 days must be excluded until such proof is properly submitted. 105 ILCS 5/27-8.1(5). Consult the board attorney about establishing timeframes other than 30 days.

¹⁵ This sentence and the following sentence restate 105 ILCS 5/27-8.1(5).

¹⁶ *Id.* The special treatment of out-of-state transfer students resulted from the enactment of the Educational Opportunity for Military Children Act, 105 ILCS 70/. There are no more sunset dates in this law, which eliminates its constituents' need to continually revisit the law and extend its effective dates.

¹⁷ 105 ILCS 5/27-8.1.

¹⁸ Required by 105 ILCS 5/27-8.1(1.10) and (2). The IDPH's rules are published at 77 Ill.Admin.Code §665.610 *et seq.* §665.150 and 630 prescribe the statewide eye examination report form. It is available at: www.idph.state.il.us/HealthWellness/EyeExamReport.pdf or 77 Ill.Admin.Code §665, Appendix A.

¹⁹ While 105 ILCS 5/27-8.1 requires eye examinations for students entering kindergarten or an Illinois school for the first time, it still encourages parent(s)/guardian(s) to have their children undergo eye examinations at the same points in time as their required health examinations. The IDPH must require that individuals conducting vision screenings give a child's parent/guardian a written notification stating:

Vision screening is not a substitute for a complete eye and vision evaluation by an eye doctor. Your child is not required to undergo this vision screening if an optometrist or ophthalmologist has completed and signed a report form indicating that an examination has been administered within the previous 12 months.

the IDPH. Schools shall not exclude a student from attending school due to failure to obtain an eye examination.

Dental Examination²⁰

All children in kindergarten and the second, ~~and sixth, and ninth~~ grades must present proof of having been examined by a licensed dentist before May 15 of the current school year in accordance with rules adopted by the IDPH.

If a child in the second, ~~or sixth, or ninth~~ grade fails to present proof by May 15, the school may hold the child's report card until the child presents proof: (1) of a completed dental examination, or (2) that a dental examination will take place within 60 days after May 15. The Superintendent or designee shall ensure that parent(s)/guardian(s) are notified of this dental examination requirement at least 60 days before May 15 of each school year.

Exemptions²¹

In accordance with rules adopted by the IDPH, a student will be exempted from this policy's requirements for:

1. Religious ~~or medical~~ grounds, if the student's parent(s)/guardian(s) present the IDPH's Certificate of Religious Exemption form to the Superintendent or designee. When a Certificate of Religious Exemption form is presented, the Superintendent or designee shall immediately inform the parent(s)/guardian(s) of exclusion procedures pursuant to Board policy 7:280, *Communicable and Chronic Infectious Disease* and State rules if there is an outbreak of one or more diseases from which the student is not protected.²²
2. Health examination or immunization requirements on medical grounds, if ~~athe~~ examining physician, advanced registered practice nurse, or physician assistant provides written verification.
3. Eye examination requirement, if the student's parent(s)/guardian(s) show an undue burden or lack of access to a physician licensed to practice medicine in all of its branches who provides eye examinations or a licensed optometrist.
4. Dental examination requirement, if the student's parent(s)/guardian(s) show an undue burden or a lack of access to a dentist.

Homeless Child

Any homeless child shall be immediately admitted, even if the child or child's parent/guardian is unable to produce immunization and health records normally required for enrollment.²³ School Board policy 6:140, *Education of Homeless Children*, governs the enrollment of homeless children.

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²⁰ Required by 105 ILCS 5/27-8.1(1.5), ~~amended by P.A. 100-829, eff. 1-1-19~~. The IDPH's rules are published at 77 Ill.Admin.Code §665.410 ~~et seq.~~ §665.150 and 430 prescribe the statewide dental examination report form. It is available at: www.dph.illinois.gov/sites/default/files/forms/dentalexamproof10_0.pdf.

²¹ ~~Id.; and~~ 105 ILCS 5/27-8.1(1.10) and (8), changed by P.A. 99-249.

²² ~~Id.; and~~ 77 Ill.Admin.Code §665.510, amended by 41 Ill.Reg. 2973, ~~eff. 2-27-17~~. The Certificate of Religious Exemption form is available on ISBE's website at: www.isbe.net/Documents/immun-exam-gdlns-religious-exempt.pdf. To direct parent(s)/guardian(s) to the detailed exclusionary requirements pursuant to 77 Ill.Admin.Code Part 690, see 7:280-E2, *Exhibit - Reporting and Exclusion Requirements for Common Communicable Diseases*.

²³ Required by 105 ILCS 45/1-20 (Education for Homeless Children Act). Also required by the McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11432(g)(3)(C)(i).

LEGAL REF.: 42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.
105 ILCS 5/27-8.1 and 45/1-20.
410 ILCS 45/7.1 and 315/2e.
23 Ill.Admin.Code §1.530.
77 Ill.Admin.Code Part 665.
77 Ill.Admin.Code Part 690.

CROSS REF.: 6:30 (Organization of Instruction), 6:140 (Education of Homeless Children),
6:180 (Extended Instructional Programs), 7:50 (School Admissions and Student
Transfers To and From Non-District Schools), 7:280 (Communicable and
Chronic Infectious Disease)

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, amended by P.A. 99-456, ~~off. 9-15-16~~); 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. The school board must require that each school inform its pupils of the discipline policy's contents.

School boards, along with the parent-teacher advisory committee, must annually review their pupil discipline policies, those policies' implementation, and any other factors related to the safety of their schools, students, and staff. 105 ILCS 5/10-20.14(a), amended by P.A. 99-456. 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.

³ Board policy should provide a jurisdictional statement telling students and staff the circumstances under which the district will take disciplinary action. Jurisdictional rules in board policy should generally be as broad as possible to give staff members authority to respond to unforeseen situations. Taking jurisdiction over off-campus misconduct generally survives the test of reasonableness when the misconduct has a direct nexus to the school. A countervailing interest concerns liability for off-campus student injuries, i.e., the greater the jurisdiction a district is willing to impose, the greater the scope of liability it may be assuming. Ultimately, a decision whether to discipline for off-campus misconduct requires a factual inquiry to determine the degree of nexus and impact on the school. Many decisions address disciplining a student for off-campus misconduct; for example, see: *J.S. v. Blue Mountain Sch. Dist.*, combined with *Layshock v. Hermitage Sch. Dist.*, 650 F.3d 205 (3d Cir. 2011), *cert. denied* 565 U.S. 1116 (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).

Note that the law is different regarding participants in athletics and extracurricular activities. See policy 7:240, *Conduct Code for Participants in Extracurricular Activities*.

A judge may transfer a student to another school for committing stalking or non-consensual sexual contact against another student, or for aiding and abetting such an act; the parents/guardians are responsible for transportation and other costs associated with the transfer. Stalking No Contact Order Act and the Civil No Contact Order Act, 740 ILCS 21/80 and 22/213. A school district is seldom notified when a transfer order is requested. When notified, school officials should immediately seek the board attorney's advice concerning available options.

1. On, or within sight of, school grounds before, during, or after school hours or at any time;
2. Off school grounds at a school-sponsored activity or event, or any activity or event that bears a reasonable relationship to school;
3. Traveling to or from school or a school activity, function, or event; or
4. Anywhere, if the conduct interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including, but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. ⁴

Prohibited Student Conduct ⁵

The school administration is authorized to discipline students for gross disobedience or misconduct, including but not limited to:

1. Using, possessing, distributing, purchasing, or selling tobacco or nicotine materials, including without limitation, electronic cigarettes. ⁶
2. Using, possessing, distributing, purchasing, or selling alcoholic beverages. ⁷ Students who are under the influence of an alcoholic beverage are not permitted to attend school or school functions and are treated as though they had alcohol in their possession.
3. Using, possessing, distributing, purchasing, selling, or offering for sale:
 - a. Any illegal drug or controlled substance, or cannabis (including ~~medical cannabis~~, marijuana, ~~and hashish~~, 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

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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. Districts that fail to comply risk a civil penalty of up to \$1,000 per violation per day. See 8:30, *Visitors to and Conduct on School Property*, for more information.

State and federal law have not yet addressed electronic cigarettes. An electronic or e-cigarette resembles a regular cigarette. It contains a battery-operated heating element that turns a liquid into a mist for inhaling. The liquid may contain nicotine. Information, albeit limited, is posted on the U.S. Food and Drug Administration website at:

www.fda.gov/tobaccoproducts/default.htm

<https://www.fda.gov/TobaccoProducts/Labeling/ProductsIngredientsComponents/ucm456610.htm>www.fda.gov/NewsEvents/PublicHealthFocus/ucm172906.htm

www.fda.gov/newsevents/publichealthfocus/ucm252360.htm

⁷ Alcoholic beverages are defined in 235 ILCS 5/1-3.01 to 3.05.

⁸ *Controlled substance* is defined in 720 ILCS 570/102; cannabis is defined in 720 ILCS 550/3. Either spelling, *marihuana* or *marijuana*, is correct; however, *marijuana* is more common. See f/n 11 for a discussion of medical cannabis and *Ashley's Law*.

⁹ *Anabolic steroid* is defined in 720 ILCS 570/102(c-1).

- 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
- 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

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¹⁰ See policies 7:240, *Conduct Code for Participants in Extracurricular Activities*, and 7:300, *Extracurricular Athletics*.

¹¹ To legally use medical cannabis, an individual must first become a *registered qualifying patient*. The use of cannabis by a *registered qualifying patient* is permitted only in accordance with the Compassionate Use of Medical Cannabis Pilot Program. 410 ILCS 130/, amended by P.A. 100-660. 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. 100-660. Ashley's Law provides that school districts "shall authorize a parent or guardian or any other individual registered with the Ill. Dept. 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 Pilot Program Act." 105 ILCS 5/22-33, added by P.A. 100-660. Once the product is administered, the designated caregiver must remove the product from the school premises/bus. Id. 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. Id. For more discussion, see f/n 24 in 7:270, Administering Medicines to Students. See also www.illinois.gov/gov/mcapp/Pages/default.aspx. Contact the board attorney for advice concerning medical cannabis, including whether a federal or State law requires the district to accommodate a student who is a *registered qualifying patient*. See Americans with Disabilities Act, 42 U.S.C. §12101 *et seq.*; Individuals with Disabilities Education Improvement Act of 2004, 20 U.S.C. §1400 *et seq.*; Rehabilitation Act of 1973, Section 504, 29 U.S.C. §794; 105 ILCS 5/14-1.01 *et seq.*, 5/14-7.02, and 5/14-7.02b; and 23 Ill.Admin.Code Part 226.

¹² The Powdered Caffeine Control and Education Act states: "No person may sell, offer for sale, give away, or provide free samples of powdered pure caffeine to any person under age 18 located within the State or to any person under age 18 making the purchase from within the State." A limited exception to this prohibition exists for "the sale of any powdered pure caffeine product that receives explicit approval as safe and effective for its intended use under the federal Food, Drug, and Cosmetic Act or is lawfully marketed under an over-the-counter monograph issued by the United States Food and Drug Administration." 410 ILCS 647/20, added by P.A. 99-50.

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, receiving, or possessing an indecent visual depiction of oneself or another person through the use of a computer, electronic communication device, or cellular phone. Unless otherwise banned under this policy or by the Building Principal, all electronic devices must be kept powered-off and out-of-sight during the regular school day unless: (a) the supervising teacher grants permission; (b) use of the device is provided in a student's individualized education program (IEP); (c) it is used during the student's lunch period, or (d) it is needed in an emergency that threatens the safety of students, staff, or other individuals. ¹⁶
- 6. Using or possessing a laser pointer unless under a staff member's direct supervision and in the context of instruction.

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¹³ *Look-alike* and *counterfeit 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 Ill. 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. Contact the board attorney for advice concerning a student who is a *registered qualifying patient*, as explained in f/n 11.

¹⁵ This language is broader than the **Weapons** section of this policy. The **Weapons** section contains the statutorily required punishment for “a student who is determined to have brought” a weapon to school along with the statutory definition of *weapon*. 105 ILCS 5/10-22.6. The language in item #4 is broader because it prohibits “using, possessing, controlling, or transferring” a weapon in addition to violating the **Weapons** section. See the footnotes in the **Weapons** section for a discussion of the Firearm Concealed Carry Act's provisions.

¹⁶ 105 ILCS 5/10-21.10 prohibits student possession of electronic paging devices, but State law leaves to local boards the discretion whether to prohibit student possession of cellular phones. 105 ILCS 5/10-20.28. The misuse of camera phones can seriously invade a student's privacy. A board wanting a sweeping prohibition may use the following alternative for item #5:

Using or possessing a cellular telephone, electronic signaling device, two-way radio, video recording device, and/or other telecommunication device, unless authorized and approved by the Building Principal.

Operating transmitters designed to jam or block wireless communications violates the federal Communications Act of 1934. 47 U.S.C. §§301, 302a, 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.

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. ¹⁷
10. Engaging in any sexual activity, including without limitation, offensive touching, sexual harassment, indecent exposure (including mooning), and sexual assault. This does not include the non-disruptive: (a) expression of gender or sexual orientation or preference, or (b) display of affection during non-instructional time.
11. Teen dating violence, as described in Board policy 7:185, *Teen Dating Violence Prohibited*. ¹⁸
12. Causing or attempting to cause damage to, or stealing or attempting to steal, school property or another person's personal property. ¹⁹
13. Entering school property or a school facility without proper authorization.
14. In the absence of a reasonable belief that an emergency exists, calling emergency responders (such as calling 911); signaling or setting off alarms or signals indicating the presence of an emergency; or indicating the presence of a bomb or explosive device on school grounds, school bus, or at any school activity.

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¹⁷ All districts must have a policy on bullying. 105 ILCS 5/27-23.7(d). Policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, contains the statutory definition of *bullying*.

105 ILCS 5/10-20.14 requires boards, in consultation with their parent-teacher advisory committees and other community-based organizations, to include provisions in their student discipline policy to address aggressive behavior, including bullying. 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 P.A. 99-456, amending 105 ILCS 5/10-20.14.

The failure of a school official (including any administrator, teacher, counselor, support staff, or coach) to report hazing is a Class B misdemeanor. 720 ILCS 5/12C-50.1.

A person commits a felony hate crime when, by reason of the actual or perceived race, color, creed, religion, ancestry, sexual orientation, disability, or national origin of another person, he or she commits assault or battery. 720 ILCS 5/12-7.1. The penalty is heightened when the offense is committed in a school or administrative facility.

720 ILCS 5/26-1 makes transmitting a threat of violence, death, or bodily harm directed against persons at a school, school function, or school event, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

¹⁸ All school boards must have a policy on prohibited teen dating violence. 105 ILCS 110/3.10. Verify that the board adopted the policy listed and amend its title in this policy, if necessary.

¹⁹ 720 ILCS 5/26-1(a)(3.5) makes threatening to destroy a school building or school property, whether or not school is in session, or causing such a threat to be transmitted, a Class 4 felony.

15. Being absent without a recognized excuse; State law and School Board policy regarding truancy control will be used with chronic and habitual truants. 20
16. Being involved with any public school fraternity, sorority, or secret society, by: (a) being a member; (b) promising to join; (c) pledging to become a member; or (d) soliciting any other person to join, promise to join, or be pledged to become a member. 21
17. Being involved in gangs or gang-related activities, including displaying gang symbols or paraphernalia. 22
18. Violating any criminal law, including but not limited to, assault, battery, arson, theft, gambling, eavesdropping, vandalism, and hazing.
19. Making an explicit threat on an Internet website against a school employee, a student, or any school-related personnel if the Internet website through which the threat was made is a site that was accessible within the school at the time the threat was made or was available to third parties who worked or studied within the school grounds at the time the threat was made, and the threat could be reasonably interpreted as threatening to the safety and security of the threatened individual because of his or her duties or employment status or status as a student inside the school. 23
20. Operating an unmanned aircraft system (UAS) or drone for any purpose on school grounds or at any school event unless granted permission by the Superintendent or designee. 24
21. Engaging in any activity, on or off campus, that interferes with, disrupts, or adversely affects the school environment, school operations, or an educational function, including but not limited to, conduct that may reasonably be considered to: (a) be a threat or an attempted intimidation of a staff member; or (b) endanger the health or safety of students, staff, or school property. 25

For purposes of this policy, the term *possession* includes having control, custody, or care, currently or in the past, of an object or substance, including situations in which the item is: (a) on the student's person; (b) contained in another item belonging to, or under the control of, the student, such as in the

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20 105 ILCS 5/26-2a, amended by P.A.s 100-918 and 100-810, eff. 1-1-19; 5/26-9; and 5/26-12, amended by P.A. 100-810, eff. 1-1-19. 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*.

21 State law requires schools to suspend or expel any student who engages in this activity. 105 ILCS 5/31-3.

22 See *Kelly v. 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.

23 This statement of misconduct restates 105 ILCS 5/10-22.6(d-5). The following alternative provides a shorter statement but will require the administrator to check the statute before imposing discipline based on it:

Making an explicit threat on an Internet website against a school, employee, or any school-related personnel under circumstances described in Section 10-22.6(d-5) of the School Code.

24 For more information regarding unmanned aircraft systems, see www.faa.gov/uas/.

25 A catchall provision, e.g., this one, gives staff members authority to respond to unforeseen situations.

If the board adopts a mandatory uniform policy (see 7:165, *School Uniforms*), add the following item to the list as number 17: "Failing to comply with the mandatory uniform policy, but only after repeated attempts to secure compliance, such as conferences with parents/guardians, have been unsuccessful."

student's clothing, backpack, or automobile; (c) in a school's student locker, desk, or other school property; or (d) at any location on school property or at a school-sponsored event. 26

Efforts, including the use of positive interventions and supports, shall be made to deter students, while at school or a school-related event, from engaging in aggressive behavior that may reasonably produce physical or psychological harm to someone else. The Superintendent or designee shall ensure that the parent/guardian of a student who engages in aggressive behavior is notified of the incident.²⁷ The failure to provide such notification does not limit the Board's authority to impose discipline, including suspension or expulsion, for such behavior.

No disciplinary action shall be taken against any student that is based totally or in part on the refusal of the student's parent/guardian to administer or consent to the administration of psychotropic or psychostimulant medication to the student. 28

Disciplinary Measures 29

School officials shall limit the number and duration of expulsions and out-of-school suspensions to the greatest extent practicable, and, where practicable and reasonable, shall consider forms of non-exclusionary discipline before using out-of-school suspensions or expulsions.³⁰ School personnel shall not advise or encourage students to drop out voluntarily due to behavioral or academic difficulties.³¹ Potential disciplinary measures include, without limitation, any of the following: 32

1. Notifying parent(s)/guardian(s).
2. Disciplinary conference.

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26 Possession should be defined to avoid vagueness problems.

27 See f/n 17.

28 Mandated by 105 ILCS 5/10-20.36.

29 **IMPORTANT:** The practice of suspending or expelling a student based on the number of accumulated disciplinary infractions may be illegal under 105 ILCS 5/10-22.6. This includes a system of assigning points to specific infractions and then tallying the points a student receives over a period of time to determine a disciplinary exclusion from school. Contact the board attorney before using such a system.

Before P.A. 99-456 amended 105 ILCS 5/10-22.6, courts used the following factors to determine if a board abused its discretion when it expelled a student: (1) the egregiousness of the student's conduct; (2) the record of the student's past conduct; (3) the likelihood that such conduct will affect the delivery of educational services to other students; (4) the severity of the punishment; and (5) the intent of the child. Robinson v. Oak Park, 213 Ill.App.3d (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 enactment of P.A. 99-456 calls into question the validity of relying on past misconduct in suspension or expulsion decisions.

Aside from procedural due process protection, students have a constitutional substantive due process right. This right protects them from an abuse of government power which "shocks the conscience." While the scope of substantive due process is very limited, it is available to students who believe they were subject to arbitrary and excessive discipline. Generally, however, school officials need not fear being found guilty of a substantive due process violation. Federal courts are loath to second-guess school officials. See Tun v. Whitticker, 398 F.3d 899 (7th Cir. 2005)(expulsion did not amount to a substantive due process violation because it fell short of the required *shocks the conscience* standard).

30 105 ILCS 5/10-22.6(b-5). According to subsection c-5, "[s]chool districts must make reasonable efforts to provide ongoing professional development to teachers, administrators, school board members, school resource officers, and staff on the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, 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, eff. 1-1-19.

31 105 ILCS 5/10-22.6(h).

32 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).

3. Withholding of privileges.
4. Temporary removal from the classroom.
5. Return of property or restitution for lost, stolen, or damaged property. ³³
6. In-school suspension. The Building Principal or designee shall ensure that the student is properly supervised. ³⁴
7. After-school study or Saturday study³⁵ provided the student's parent/guardian has been notified. If transportation arrangements cannot be agreed upon, an alternative disciplinary measure must be used. The student must be supervised by the detaining teacher or the Building Principal or designee.
8. Community service with local public and nonprofit agencies that enhances community efforts to meet human, educational, environmental, or public safety needs.³⁶ The District will not provide transportation. School administration shall use this option only as an alternative to another disciplinary measure, giving the student and/or parent/guardian the choice.
9. Seizure of contraband; confiscation and temporary retention of personal property that was used to violate this policy or school disciplinary rules. ³⁷
10. Suspension of bus riding privileges in accordance with Board policy 7:220, *Bus Conduct*. ³⁸
11. Out-of-school suspension from school and all school activities in accordance with Board policy 7:200, *Suspension Procedures*.³⁹ A student who has been suspended may also be restricted from being on school grounds and at school activities. ⁴⁰
12. Expulsion from school and all school activities for a definite time period not to exceed 2 calendar years in accordance with Board policy 7:210, *Expulsion Procedures*.⁴¹ A student

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³³ While restitution is permitted, issuing a fine or fee as a disciplinary consequence is not permitted. 105 ILCS 5/10-22.6(i). The Parental Responsibility Law (740 ILCS 115/5) is discussed in a footnote in sample policy 7:170, *Vandalism*.

³⁴ ~~State law does not address in-school suspensions. 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. Providing anyhowever providing such programming educational program 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.

³⁵ Teachers may not be required to teach on Saturdays. 105 ILCS 5/24-2.

³⁶ See *Herndon v. Chapel Hill-Carrboro City Bd.*, 89 F.3d 174 (4th Cir. 1996)(upheld policy requiring students to complete community service in order to graduate).

³⁷ Consult the board attorney for advice concerning confiscated devices. There is no binding Ill. court decision regarding school personnel seizing and retaining a student's property. The Supreme Court of Arkansas held that a teacher and principal did not violate a student's state or federal rights when they confiscated and retained a student's cell phone for two weeks for violating school rules on cell phones. *Koch v. Adams*, 361 S.W.3d 817 (Ark. 2010).

³⁸ 105 ILCS 5/10-22.6(b) and (b-30), amended by P.A. 99-456, ~~eff. 9-15-16~~.

³⁹ A suspension may be imposed in only limited situations that vary according to the suspension's length. 105 ILCS 5/10-22.6(b-15). This is explained in sample board policy 7:200, *Suspension Procedures*, and its footnotes

⁴⁰ This sentence is optional. A board may make this mandatory by replacing "may also be" with "shall also be."

⁴¹ An expulsion may be imposed in only limited situations. 105 ILCS 5/10-22.6(b-20). This is explained in sample board policy 7:210, *Expulsion Procedures*, and its footnotes.

105 ILCS 5/10-22.6(d) permits expulsion for a definite period of time not to exceed 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.

who has been expelled may also be restricted from being on school grounds and at school activities. ⁴²

13. Transfer to an alternative program if the student is expelled or otherwise qualifies for the transfer under State law. The transfer shall be in the manner provided in Article 13A or 13B of the School Code. ⁴³
14. Notifying juvenile authorities or other law enforcement whenever the conduct involves criminal activity, including but not limited to, illegal drugs (controlled substances), *look-alikes*, alcohol, or weapons or in other circumstances as authorized by the reciprocal reporting agreement between the District and local law enforcement agencies.

The above list of disciplinary measures is a range of options that will not always be applicable in every case. In some circumstances, it may not be possible to avoid suspending or expelling a student because behavioral interventions, other than a suspension and expulsion, will not be appropriate and available, and the only reasonable and practical way to resolve the threat and/or address the disruption is a suspension or expulsion.⁴⁴

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. ⁴⁵ ⁴⁶

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⁴² This sentence is optional. A board may make this mandatory by replacing “may also be” with “shall also be.”

⁴³ 105 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 (2015 IL App. 143202) 41 N.E. 3d 501 (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.

⁴⁴ **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, amended by P.A. 100-105, ~~eff. 1-1-18~~. 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). As of **PRESS Issue 996**, the Ill. State Board of Education (**ISBE**) has not yet adopted rules to implement these new requirements. 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.

⁴⁵ This paragraph paraphrases 105 ILCS 5/24-24.

Weapons 47

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. 48

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46 Staff members may *not* use isolated time out or physical restraint unless their use is authorized by policy and administrative procedure. 105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §1.280(c) and 1.285. See 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*. **The sample policy prohibits the use of isolated time out and physical restraint by not specifically permitting their use.** State statute and ISBE rules contain complex restrictions on the use of isolated time out and physical restraints. 105 ILCS 5/2-3.130, 5/10-20.33, and 5/24-24; 23 Ill.Admin.Code §1.280(c) and 1.285. According to the ISBE rule, isolated time out and physical restraints are prohibited unless a board authorizes their use in a policy containing the numerous components identified in the rule. **A board that wants to authorize the use of isolated time out and physical restraints should insert the paragraph below.** To comply with ISBE's rule, a board must also incorporate by reference the procedure developed by the superintendent, i.e., 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*. By doing this, the procedure becomes part of the policy.

School staff members shall not use isolated time out and physical restraints other than as permitted in Section 10-20.33 of the School Code, State Board of Education rules, and procedures developed by the Superintendent.

Neither isolated time out nor physical restraints shall be used to discipline or punish a student.

If the above option is used, add the following before the Legal References on the final page: "Incorporated by Reference: 7:190-AP4, *Use of Isolated Time Out and Physical Restraint*."

47 This section paraphrases 105 ILCS 5/10-22.6(d) and contains the statutorily required punishment for bringing a weapon to school along with the statutory definition of *weapon*. When preparing for a due process hearing, a principal needs to use the applicable State and federal law definitions of *firearm* – not just the School Code.

While subsection 105 ILCS 5/10-22.6(b-10), added by P.A. 99-456, explicitly forbids zero tolerance policies, it provides an exception for those zero tolerance policies established by State or federal law, which includes weapons in school. Section 10-22.6(d) provides that a student who brings a weapon to school, as defined in the section, "shall be expelled for a period not less than one year," unless modified by the superintendent or board. The federal Gun-Free Schools Act (20 U.S.C. §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.

48 Optional.

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. ⁴⁹

Re-Engagement of Returning Students ⁵⁰

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. ⁵¹

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.⁵² 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.⁵³ "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

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⁴⁹ 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.

⁵⁰ Required by 105 ILCS 5/10-22.6(b-25). See 7:190-AP8, *Student Re-Engagement Guidelines*.

⁵¹ 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).

⁵² 105 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.

⁵³ *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.

defense of property. Teachers may temporarily remove students from a classroom for disruptive behavior. ⁵⁴

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.⁵⁵ The Board may suspend a student from riding the bus in excess of ten school days for safety reasons. ⁵⁶

Student Handbook

The Superintendent, with input from the parent-teacher advisory committee,⁵⁷ 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.

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⁵⁴ 105 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.

⁵⁵ Required by 105 ILCS 5/10-22.6(b).

⁵⁶ *Id.*

⁵⁷ 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.

LEGAL REF.:

20 U.S.C. §6081, Pro-Children Act of 1994. ~~Gun-Free Schools Act, 20 U.S.C. §7961 et seq.~~

~~Pro-Children Act of 1994, 20 U.S.C. §6081-20 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, 5/31-3, and 110/3.10.

410 ILCS 130/, Compassionate Use of Medical Cannabis Pilot Program.

410 ILCS 647/, Powdered Caffeine Control and Education Act.

430 ILCS 66/, Firearm Concealed Carry Act.

~~105 ILCS 5/10-20.5b, 5/10-20.14, 5/10-20.28, 5/10-20.36, 5/10-21.7, 5/10-21.10, 5/10-22.6, 5/10-27.1A, 5/10-27.1B, 5/24-24, 5/26-12, 5/27-23.7, 5/31-3, and 110/3.10.~~

23 Ill.Admin.Code §1.280.

CROSS REF.:

2:150 (Committees), 2:240 (Board Policy Development), 5:230 (Maintaining Student Discipline), 6:110 (Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program), 7:70 (Attendance and Truancy), 7:130 (Student Rights and Responsibilities), 7:140 (Search and Seizure), 7:150 (Agency and Police Interviews), 7:160 (Student Appearance), 7:170 (Vandalism), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment-), 7:185 (Teen Dating Violence Prohibited), 7:200 (Suspension Procedures), 7:210 (Expulsion Procedures), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:270 (Administering Medicines to Students), 7:310 (Restrictions on Publications; Elementary Schools), 8:30 (Visitors to and Conduct on School Property)

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

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.

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 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. For information about administering student discipline, see the U.S. Dept. of Education's and the U.S. Dept. of Justice's 2014 jointly released school discipline package, *Guiding Principles*, at: www2.ed.gov/policy/gen/guid/school-discipline/faq.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. In-school suspensions are not covered by statute. 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.

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*, 95 S.Ct. 729 419 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., E.D., 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.

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*, 95 S.Ct. 729 419 U.S. 565 (1975). For further discussion, see f/n 4340 in policy 7:190, *Student Behavior*.

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:
 - 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:
 - 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:
 - 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,⁶ and

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⁴ 105 ILCS 5/10-22.6, amended by P.A. 99-456, ~~eff. 9-15-2016~~.

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), amended by P.A. 99-456, ~~eff. 9-15-2016~~ 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), amended by P.A. 99-456, ~~eff. 9-15-2016~~. 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 (~~see f/n 5 above~~).

- 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 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

LEGAL REF.: 105 ILCS 5/10-22.6.
Goss v. Lopez, 95 S.Ct. 729 (1975).
Sieck v. Oak Park River-Forest High School, 807 F.Supp. 73 (N.D. Ill., E.D., 1992).

CROSS REF.: 5:100 (Staff Development Program), 7:130 (Student Rights and Responsibilities), 7:190 (Student Behavior), 7:220 (Bus Conduct)

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

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), amended by P.A. 99-456, eff. 9-15-2016).~~ **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.s 99-456 and 100-810, eff. 1-1-19, eff. 9-15-2016).~~

⁹ 105 ILCS 5/10-22.6(b-25), amended by P.A. 99-456, eff. 9-15-2016.

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).

¹² 105 ILCS 5/10-22.6(b), amended by P.A. 99-456, eff. 9-15-2016.

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 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.

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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. 23 Ill.Admin.Code §1.420(q).

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: <http://povertylaw.org/advocacy/women/pubs/essa-task-force-report> ~~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.

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.

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

The Superintendent or designee shall develop protocols for responding to students with social, emotional, or mental health ~~problems-needs~~ that impact learning ability.⁸ The District, however, assumes no liability for preventing, identifying, or treating such ~~problemsneeds~~.

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.: 405 ILCS 49/, Children's Mental Health Act of 2003.
740 ILCS 110/, Mental Health and Developmental Disabilities Confidentiality Act.
105 ILCS 5/10-20.58.

CROSS REF.: 6:65 (Student Social and Emotional Development), 6:270 (Guidance and Counseling Program), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:280 (Communicable and Chronic Infectious Diseases), 7:340 (Student Records)

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

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. Id., amended by P.A. 100-356.

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, 25.255. 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~~.

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. ~~100-196 and 100-614, eff. 1-1-18~~, 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-~~10501(a), 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 5/10-20.598, 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.

⁸ Required by the Children's Mental Health Act of 2003, 405 ILCS 49/15(b).

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

Special activities in physical education will be provided for a student whose physical or emotional condition, as determined by a person licensed under the Medical Practice Act, prevents his or her participation in the physical education course.⁴

State law prohibits the Board from honoring parental excuses based upon a student's participation in athletic training, activities, or competitions conducted outside the auspices of the School District.⁵

A student who is eligible for special education may be excused from physical education courses in either of the following situations:⁶

1. He or she (a) is in grades 3-12, (b) his or her IEP requires that special education support and services be provided during physical education time, and (c) the parent/guardian agrees or the IEP team makes the determination; or
2. He or she (a) has an IEP, (b) is participating in an adaptive athletic program outside of the school setting, and (c) the parent/guardian documents the student's participation as required by the Superintendent or designee.

A student requiring adapted physical education must receive that service in accordance with his or her Individualized Educational Program/Plan (IEP).⁷

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

¹ An ISBE rule requires boards to have a policy defining the types of parental excuses that will be accepted in order for a student to be exempted from P.E. 23 Ill.Admin.Code §1.425(e), ~~added at 40 Ill. Reg. 2990~~ 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(~~de~~)(1) and (23), 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 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.

⁵ 105 ILCS 5/27-6(b); 23 Ill.Admin.Code §1.425(e)(~~6~~) 32, 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.

⁶ 105 ILCS 5/27-6(b) and 23 Ill.Admin.Code §1.425(e)(5)(A) and (B), amended at 42 Ill.Reg. 11543.

⁷ 105 ILCS 5/27-6(b).

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*.⁸

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.⁹ 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.¹⁰

Students who have been excused from physical education shall return to the course as soon as practical.¹¹ The following considerations will be used to determine when a student shall return to a physical education course:¹²

1. The time of year when the student's participation ceases;
2. The student's class schedule; and
- 4.3. 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*.¹³

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⁸ 105 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.

⁹ ~~105 ILCS 5/27-6, amended by P.A. 100-465Id. See ¶n 14 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. 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." It does not require such participation to be ongoing. Common sense, however, would allow the exemption to continue only until the end of the grading period during which the athletic program is active.~~

~~State statuteslaw does 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), amended 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."~~

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.

¹⁰ 23 Ill.Admin.Code §1.425(~~ef~~), 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.

¹¹ 23 Ill.Admin.Code §1.425(e)(1)(A)-(C), added at 42 Ill.Reg. 11542.

¹² Insert any additional criteria the board may want to use.

¹³ 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), ~~(f)~~.

CROSS REF.: 6:60 (Curriculum Content), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students)

Students

Administering Medicines to Students ¹

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

No School District employee shall administer to any student, or supervise a student's self-administration of, any prescription or non-prescription medication until a completed and signed *School Medication Authorization Form* is submitted by the student's parent/guardian. No student shall possess or consume any prescription or non-prescription medication on school grounds or at a school-related function other than as provided for in this policy and its implementing procedures.

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

The Building Principal shall include this policy in the Student Handbook and shall provide a copy to the parent(s)/guardian(s) of students. ²

Self-Administration of Medication ³

A student may possess an epinephrine ~~auto~~-injector, e.g., EpiPen®, and/or asthma medication prescribed for use at the student's discretion, provided the student's parent/guardian has completed and signed a *School Medication Authorization Form*. The School District shall incur no liability, except for willful and wanton conduct, as a result of any injury arising from a student's self-administration of medication or epinephrine ~~auto~~-injector or the storage of any medication by school personnel.⁴ A student's parent/guardian must indemnify and hold harmless the School District and its employees and agents, against any claims, except a claim based on willful and wanton conduct,

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¹ All districts must have a policy for administering medication. 105 ILCS 5/10-20.14b. State law prohibits school boards from requiring that teachers and other non-administrative school employees administer medication to students; exceptions are certificated school nurses and non-certificated registered professional nurses. 105 ILCS 5/10-22.21b.

² Each district must inform students, e.g., through homeroom discussion or loudspeaker announcement, about, and distribute to their parents/guardians, the district's policy, guidelines, and forms on administering medicines within 15 days after the beginning of each school year, or within 15 days after starting classes for a student who transfers into the district. 105 ILCS 5/10-20.14b. A comprehensive Student Handbook can provide notice to parents and students of the school's rules, extracurricular and athletic participation requirements, and other important information. The Handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. 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.

³ 105 ILCS 5/22-30, amended by P.A.s 100-726 and 100-799, both eff. 1-1-19, requires school districts to allow students to self-administer their prescribed asthma medication and an epinephrine ~~auto~~-injector as described. Self-carry means a student's ability to carry his or her prescribed asthma medication or epinephrine ~~auto~~-injector. Self-administer and self-administration mean that a student may use these two medications at his or her discretion: (1) while in school; (2) while at a school sponsored activity; (3) while under the supervision of school personnel; or (4) before or after normal school activities, such as while in before-school or after-school care on school-operated property.

⁴ 105 ILCS 5/22-30(c) requires this information to be in a notification to parents.

arising out of a student's self-administration of an epinephrine ~~auto~~-injector and/or medication, or the storage of any medication by school personnel. ⁵

School District Supply of Undesignated Asthma Medication ⁶

The Superintendent or designee shall implement Section 22-30(f) of the School Code and maintain a supply of undesignated asthma medication in the name of the District and provide or administer them as necessary according to State law. Undesignated asthma medication means an asthma medication prescribed in the name of the District or one of its schools. A school nurse or trained personnel, as defined in State law, ⁷ may administer an undesignated asthma medication to a person when they, in good faith, believe a person is having respiratory distress. Respiratory distress may be characterized as mild-to-moderate or severe.⁸ Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law.⁹

Commented [KS1]: Text in this footnote is moved from epinephrine and opioid antagonist footnotes to consolidate. New text is shown as such. Former footnotes refer to this footnote for discussion of the definition of trained personnel.

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

⁵ 105 ILCS 5/22-30(c) requires parents/guardians to sign a statement: (1) acknowledging the statement from f/n 4 above; and (2) that they must indemnify and hold harmless the school district and its employees and agents against any claims, except a claim based on willful and wanton conduct, arising out of the self-administration of medication by the student or the storage of the medication by school personnel. There are several methods to obtain a parent/guardian's signature for this purpose, e.g., receipt of handbook signature, or see 7:270 E1, *School Medication Authorization Form - Asthma Inhalers and/or Epinephrine Injectors*. Discuss with the board attorney the method that works best for the district.

⁶ Optional. A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30, amended by P.A. 100-726, eff. 1-1-19. The law permits a district to maintain a supply of undesignated asthma medication in any secure location that is accessible before, during, and after school where a person is most at risk, including, but not limited to a classroom or the nurse's office, and use them when necessary. The P.A. 100-726, eff. 1-1-19, amendment requiring accessibility before, during, and after school does not address the logistical issues that classrooms are typically locked before and after school. Consult the board attorney about the implementation issues with this new phrase in the law.

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated asthma medication, implement a plan for its use, and then not doing it, as doing so may be fraught with legal liabilities. Also fraught with legal liabilities is when the district provides them, but does not have them accessible before, during, and after school where an asthmatic person is most at risk as required by 105 ILCS 5/22-30, amended by P.A. 100-726, eff. 1-1-19. See In re Estate of Stewart, 406 Ill.Dec. 345 (2nd Dist. 2016)(denying tort immunity to district, finding its response to a student's asthma attack was willful and wanton (which district disputed as a possible heart attack)) and In re Estate of Stewart, 412 Ill.Dec. 914 (Ill. 2017)(school district's appeal denied).

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

⁷ 105 ILCS 5/22-30(a), amended by P.A. 100-726, eff. 1-1-19, defines trained personnel as any school employee or volunteer personnel authorized in Sections 10-22.34, 10-22.34a, and 10-22.34b of the School Code who has completed training required by 105 ILCS 5/22-30(g), amended by P.A. 100-726, eff. 1-1-19 to recognize and respond to anaphylaxis, an opioid overdose, or respiratory distress, 105 ILCS 5/22-30(a), amended by P.A. 100-726, eff. 1-1-19.

ISBE must develop the training curriculum for trained personnel, and it may be conducted online or in person. Id. at (h) and 23 Ill.Admin.Code §1.540(c)(3). P.A. 99-480 did not amend the trained personnel to include recognition and response to an opioid overdose. However, 105 ILCS 5/22-30(h-5), amended by P.A. 99-480, 5/22-30(h), amended by 99-711, and 5/22-30(h-10), amended by P.A. 100-726, eff. 1-1-19 and 23 Ill.Admin.Code §1.540(c)(4) list the training curriculum requirements to recognize and respond to an opioid overdose, an allergic reaction, including anaphylaxis, and respiratory distress, respectively.

⁸ Id. at (a).

⁹ Id. at (g) and 23 Ill.Admin.Code §1.540(c)(7)&(8).

School District Supply of Undesignated Epinephrine ~~Auto~~-Injectors ¹⁰

The Superintendent or designee shall implement Section 22-30(f) of the School Code and maintain a supply of undesignated epinephrine ~~auto~~-injectors in the name of the District and provide or administer them as necessary according to State law. *Undesignated epinephrine ~~auto~~-injector* means an epinephrine ~~auto~~-injector prescribed in the name of the District or one of its schools. A school nurse or trained personnel, as defined in State law,¹¹ may administer an undesignated epinephrine ~~auto~~-injector to a person when they, in good faith, believe a person is having an anaphylactic reaction. Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law. ¹²

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

¹⁰ Optional. A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30, amended by P.A. 99-711. The law permits a district to maintain a supply of undesignated epinephrine ~~auto~~-injectors in any secure location that is accessible before, during, and after school where an allergic person is most at risk, including, but not limited to, classrooms and lunchrooms, and use them when necessary. The P.A. 99-711 amendment requiring accessibility before, during, and after school does not address the logistical issues that classrooms are typically locked before and after school. Consult the board attorney about the implementation issues with this new phrase in the law.

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated epinephrine ~~auto~~-injectors, and implement a plan for their use, and then not doing it, ~~as doing so~~ may be fraught with legal liabilities. Also fraught with legal liabilities is if the district is providing them, ~~but does not having them accessible before, during, and after school where an allergic person is most at risk as required by P.A. 99-711.~~ See *In re Estate of Stewart*, 406 Ill.Dec. 345 (2nd Dist. 2016)(denying tort immunity to district, finding its response to a student's asthma attack was *willful and wanton* (which district disputed as a possible heart attack)); *In re Estate of Stewart*, 412 Ill.Dec. 914 (Ill. 2017)(school district's appeal denied).

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

¹¹ See the discussion regarding state law defines trained personnel, in ~~fn 7, above as any school employee or volunteer personnel authorized in Sections 10-22.34, 10-22.34a, and 10-22.34b of this Code who has completed training to recognize and respond to anaphylaxis. 105 ILCS 5/22-30(a). ISBE must develop the training curriculum for trained personnel, and it may be conducted online or in person. Id. at (b) and 23 Ill.Admin.Code §1-540(e)(3). P.A. 99-480 did not amend the trained personnel to include recognition and response to an opioid overdose. However, 105 ILCS 5/22-30(h-5), amended by P.A. 99-480 and 23 Ill.Admin.Code §1-540(e)(4) list the training curriculum requirements to recognize and respond to an opioid overdose.~~

¹² See ~~fn 9, above 23 Ill.Admin.Code §1-540(e)(7)&(8).~~

School District Supply of Undesignated Opioid Antagonists 13

The Superintendent or designee shall implement Section 22-30(f) of the School Code and maintain a supply of undesignated opioid antagonists in the name of the District and provide or administer them as necessary according to State law. *Opioid antagonist* means a drug that binds to opioid receptors and blocks or inhibits the effect of opioids acting on those receptors, including, but not limited to, naloxone hydrochloride or any other similarly acting drug approved by the U.S. Food and Drug Administration. *Undesignated opioid antagonist* is not defined by the School Code; for purposes of this policy it means an opioid antagonist prescribed in the name of the District or one of its schools. A school nurse or trained personnel,¹⁴ as defined in State law, may administer an undesignated opioid antagonist to a person when they, in good faith, believe a person is having an opioid overdose. Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law.¹⁵ ~~On or after June 1, 2018,~~ ~~See the website for the Ill. Dept. of Human Services for information about opioid prevention, abuse, public awareness, and a toll-free number to provide information and referral services for persons with questions concerning substance abuse treatment.~~ ¹⁶

Designated Caregiver Administration of Medical Cannabis 17

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

13 Optional. If the board chooses to implement an undesignated opioid antagonist program, and the district employs law enforcement, consult the board attorney about whether this subhead becomes required. See ~~*Alcoholism and Other Drug Abuse and Dependency Substance Use Disorder Act*~~ 20 ILCS 301/, amended by P.A.s 100-201 and 100-759, eff. 1-1-19.

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

A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30(h-5), amended by P.A. 99-480. The law permits a district to maintain a supply of undesignated opioid antagonists in any secure location where a person is at risk of an opioid overdose and use them when necessary. The consequences of informing the community that the district will obtain a prescription for a supply of opioid antagonists and implement a plan for their use, and then not doing it may be fraught with legal liabilities.

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

¹⁴ See the discussion regarding *trained personnel* in ¶n 7, above.

¹⁵ See ¶n 28, above.

¹⁶ Optional sentence if the board chooses to implement an undesignated opioid antagonist program as discussed in ¶n 9, above. 20 ILCS 301/20-30, added by P.A. 100-494, eff. ~~6-1-18,~~ mandates the Ill. Dept. of Human Services to create a website with these resources. The purpose of this sentence is to provide the community with information about a public health crisis affecting students.

~~**17** 105 ILCS 5/22-33(p), added by P.A. 100-660 (*Ashley's Law*), allows students to be given medical cannabis infused products at school or on the school bus and requires school boards to adopt a policy to implement the law. **Important: Implementation of this policy may cause a district to lose federal funding.** See ¶n 22, below and consult the board attorney about the issue of federal funding.~~

~~If the board will not adopt a policy addressing the administration of medical cannabis, delete: (1) this subhead, (2) the last sentence from the section entitled **Void Policy; Disclaimer**, and (3) the following statutes from the Legal References:~~

~~"and 5/22-33"~~

~~410 ILCS 130/, *Compassionate Use of Medical Cannabis Pilot Program Act*, and scheduled to be repealed on July 1, 2020;~~

~~720 ILCS 650/, *Cannabis Control Act*;~~

~~Last, move the "and" in the Legal References forward; 105 ILCS 5/10-20, 14b, 5/10-22, 21b, and 5/22-30.~~

The Compassionate Use of Medical Cannabis Pilot Program Act¹⁸ allows a parent/guardian of a student who is a minor to register with the Ill. Dept. of Public Health (IDPH) as a *designated caregiver* to administer medical cannabis to their child. A designated caregiver may also be another individual other than the student's parent/guardian. Any designated caregiver must be at least 21 years old¹⁹ and is allowed to administer a *medical cannabis infused product* to a child who is a student on the premises of his or her school or on his or her school bus if:

1. Both the student and the designated caregiver possess valid registry identification cards issued by IDPH;
2. Copies of the registry identification cards are provided to the District;²⁰ and
3. That student's parent/guardian completed, signed, and submitted a *School Medication Authorization Form - Medical Cannabis*.²¹

Medical cannabis infused product (product) includes oils, ointments, foods, and other products that contain usable cannabis but are not smoked or vaped.²² Smoking and/or vaping medical cannabis is prohibited.²³

After administering the product to the student, the designated caregiver shall immediately²⁴ remove it from school premises or the school bus. The product may not be administered in a manner that, in the opinion of the District or school, would create a disruption to the educational environment or cause exposure of the product to other students. A school employee shall not be required to administer the product.²⁵

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

¹⁸ 410 ILCS 130/, and scheduled to be repealed on July 1, 2020.

¹⁹ Id. at 130/10(f), added by P.A. 100-660.

²⁰ The laws are silent about copies of the cards being provided to the district. Requiring copies of the registry cards is a best practice. Consult the board attorney about any records laws implicated in requiring and maintaining copies of these registry cards.

²¹ A completed and signed school medication authorization form is not required by *Ashley's Law* but is a best practice and consistent with this sample policy's language for other medications. See sample exhibit 7:270-E2, *School Medication Authorization Form — Medical Cannabis*.

²² Consult the board attorney regarding the controversial issue of students using at, or bringing to school, cannabis-infused products without THC that are derived from industrial hemp (hemp oil or cannabidiol (CBD) oil, the naturally occurring cannabinoid constituent of cannabis). Industrial hemp is defined in the Industrial Hemp Act (IHA) as the plant *Cannabis sativa* L. and any part of that plant, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of not more than 0.3 percent on a dry weight basis that has been cultivated under a license or is otherwise lawfully present in Illinois and includes any intermediate or finished product made or derived from industrial hemp. 505 ILCS 89/, added by P.A. 100-1091. Industrial hemp is also colloquially known as *agricultural hemp*.

Products from industrial hemp are widely available. As a consequence, school employees may encounter the argument from a student and his or her parent/guardian that the use of hemp or CBD oil products derived from industrial hemp (containing no THC) is not a violation of Illinois law because 720 ILCS 550/3(a), amended by P.A. 100-1091 states "cannabis does not include industrial hemp as defined and authorized under the IHA (505 ILCS 89/, added by P.A. 100-1091)."

²³ Optional sentence, 410 ILCS 130/10(e), amended by P.A. 100-660, and scheduled to be repealed on July 1, 2020, prohibits medical cannabis from being smoked. District administrators may find providing this information to the community helpful to enforcement of this policy.

²⁴ The word *immediately* is not in *Ashley's law*. It is added to ensure legal compliance with federal laws that could affect federal funding. For example, consider administrators who may be in the situation where a designated caregiver provides his or her child the product and then wants to volunteer in the school or greet another child in the school while carrying the product in the building which may violate the Cannabis Control Act (720 ILCS 550/). Consult the board attorney about the best term to use here, if any, as nothing in the law addresses these common scenarios that school administrators will encounter.

²⁵ 105 ILCS 5/22-33(e), added by P.A. 110-660.

Discipline of a student for being administered a product by a designated caregiver pursuant to this policy is prohibited. The District may not deny a student attendance at a school solely because he or she requires administration of the product during school hours.

Void Policy-Disclaimer 26

The School District Supply of Undesignated Asthma Medication section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for undesignated asthma medication from a physician or advanced practice nurse licensed to practice medicine in all its branches, or (2) fill the District's prescription for undesignated school asthma medication. 27

The School District Supply of Undesignated Epinephrine ~~Auto~~-Injectors section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for undesignated epinephrine ~~auto~~-injectors from a physician or advanced practice nurse licensed to practice medicine in all its branches, or (2) fill the District's prescription for undesignated school epinephrine ~~auto~~-injectors. 28

The School District Supply of Undesignated Opioid Antagonists section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for opioid antagonists from a health care professional²⁹ who has been delegated prescriptive authority for opioid antagonists in accordance with Section 5-23 of the ~~Alcoholism and Other Drug Abuse and Dependency Substance Use Disorder~~ Act, or (2) fill the District's prescription for undesignated school opioid antagonists. 30

The Designated Caregiver Administration of Medical Cannabis section of the policy is void and the District reserves the right not to implement it if the District or school is in danger of losing federal funding. 31

Administration of Undesignated Medication 32

Upon any administration of an undesignated asthma medication, epinephrine ~~auto~~-injector, or an opioid antagonist, the Superintendent or designee(s) must ensure all notifications required by State law and administrative procedures occur.

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

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

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

28 See f/n 27, above. Discuss with the board attorney whether the board should remove this sentence when the district reaches full implementation of this section.

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

30 See f/n 27-3 above.

31 105 ILCS 5/22-33(f).

32 105 ILCS 5/22-30, amended by P.A.s 99-480 and 100-799, eff. 1-1-19 details specific required notifications, which are listed in 7:270-AP2, *Checklist for District Supply of Undesignated Asthma Medication, Epinephrine Injectors, and/or Opioid Antagonists*.

Disclaimers

Upon implementation of this policy, the protections from liability and hold harmless provisions as explained in Section 22-30(c) of the School Code apply. 33

No one, including without limitation parent(s)/guardian(s) of students, should rely on the District for the availability of undesignated asthma medication, an undesignated epinephrine auto-injector, and/or an undesignated opioid antagonist. This policy does not guarantee the availability of undesignated medications—an epinephrine auto-injector and/or opioid antagonist. Students and their parent(s)/guardian(s) should consult their own physician regarding such these medication(s).

LEGAL REF.: 105 ILCS 5/10-20.14b, 5/10-22.21b, and 5/22-30, and 5/22-33.
410 ILCS 130/, Compassionate Use of Medical Cannabis Pilot Program Act, and
scheduled to be repealed on July 1, 2020.
720 ILCS 550/, Cannabis Control Act.
23 Ill.Admin.Code § 1.540.

CROSS REF.: 7:285 (Food Allergy Management)

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

The footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.
33 105 ILCS 5/22-30(c).

7:270

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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 5/2-3.1663(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:

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¹ A suicide awareness and prevention policy is required by 105 ILCS 5/2-3.1663(c), amended by P.A. 99-443. The first sentence of this policy is required by 105 ILCS 5/2-3.1663(c)(1), amended by P.A.s 99-443 and 99-642.

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 5/2-3.1663(c)(2), amended by P.A.s 99-443 and 99-642. 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 5/2-3.1663(c)(3), amended by P.A.s 99-443 and 99-642. 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. ~~For students in grades 7 through 12, implementation shall incorporate t~~The training required by 105 ILCS 5/10-22.39 for ~~school guidance counselors, teachers, school social workers, and other licensed school personnel and administrators~~ who work with students to identify the warning signs of suicidal behavior in ~~youth adolescents and teens~~ 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. ~~For all students, implementation shall incorporate Illinois III.~~ 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. Implementation will incorporate paragraph number 2, above, along with: 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. 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.
 - c. 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
 - d. 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*.

~~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. 100-903, eff. 1-1-19, requires school guidance counselors, teachers, school social workers, and other licensed school personnel and administrators who work with students in grades 7-kindergarten through grade 12 to be trained to identify the warning signs of suicidal behavior in youth adolescents and teens along with appropriate intervention and referral techniques. The language of P.A. 99-443 states students, indicating intent to cover all students, not just students in grades 7 through 12. While very little guidance is available for students in grades 6 and below, Ann Marie's Law directs ISBE to compile, develop and post these items on its website.~~

~~Ann Marie's Law requires ISBE to develop and recommend materials. See the discussion in f/n7 below on ISBE-recommended materials.~~

~~4 Required by 105 ILCS 5/2-3.1636(c)(4), amended by P.A.s 99-443 and 99-642. For further discussion of 105 ILCS 5/10-22.24b, amended by P.A. 99-276, 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.~~

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-recommend 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

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

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 5/2-3.1663(c)(5), amended by P.A.s 99-443 and 99-642. See 7:250-AP2, *Protocol for Responding to Students with Social, Emotional, or Mental Health NeedProblems* 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 5/2-3.1663(c)(6), amended by P.A.s 99-443 and 99-642.

⁷ 105 ILCS 5/2-3.1663(b)(2)(B), amended by P.A.s 99-443 and 99-642, 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."

⁸ Required by 105 ILCS 5/2-3.1663(c)(7), amended by P.A.s 99-443 and 99-642.

⁹ Optional. At the time of publication, the status of the Illinois Suicide Prevention Strategic Plan was unclear in light of *Ann Marie's Law*. However, the plan may be found at: 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/.

¹⁰ Required by 105 ILCS 5/2-3.1663(d), amended by P.A.s 99-443 and 99-642.

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.

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 beyond the school day and/or school-sponsored events, and (4) cannot guarantee or ensure the safety of a student or the student body. 13

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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 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 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 School Dist. No. 365-U*, 676 N.E.2d 705, 286 Ill. App.3d 642 (Ill. App. 3d, 3rd Dist. 1997), ~~appeal denied, 286 Ill. App. 3d 642 (Ill., 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/ns 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 *Anne 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 School Dist.*, 295 F.3d 701 (7th Cir., 2002), ~~Cert. Denied, 295 F.3d 70 (U.S. 2002)~~; *Armijo v. Wagon Mount Public 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, two cases illustrate the uncertainty of liability in the emerging area of suicide prevention liability and/or failure to properly respond to a student's mental health issues: *Estate of Barnwell ex rel. Barnwell v. Watson*, 44 Supp.3d 859 (E.D. Ark. 2014) (plaintiff parents allowed to move forward in litigation alleging that school district's *Section 504* failures contributed to their son's suicide) and *Estate of Lance v. Lewisville Independent School Dist.*, 743 F.3d 982 (5th Cir. 2014) (found in favor of the school district).

LEGAL REF.: 105 ILCS 5/2-3.1663, 5/14-1.01 et seq., 5/14-7.02, and 5/14-7.02b.
745 ILCS 10/.

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)

Students

Student Athlete Concussions and Head Injuries ¹

The Superintendent or designee shall develop and implement a program to manage concussions and head injuries suffered by students. The program shall:

1. Fully implement the Youth Sports Concussion Safety Act, that provides, without limitation, each of the following: ²
 - a. The Board must appoint or approve member(s) of a Concussion Oversight Team for the District. ³
 - b. The Concussion Oversight Team shall establish each of the following based on peer-reviewed scientific evidence consistent with guidelines from the Centers for Disease Control and Prevention: ⁴

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¹ Three Illinois statutes in the School Code have addressed student concussions:

- (1) The Youth Sports Concussion Safety Act, 105 ILCS 5/22-80, added by P.A. 99-245; ~~amended by P.A.s 99-486 (delayed the compliance deadline until the beginning of the 2016-2017 school year) and 100-747, eff. 1-1-19; trailer legislation (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~ The Act contains concussion safety directives for school boards and certain identified staff members. A school district must implement Sec. 22-80 if it offers interscholastic athletic activities or interscholastic athletics under the direction of a coach (volunteer or school employee), athletic director, or band leader. A school district may need to implement its return-to-learn protocol for a student's return to the classroom after he or she is believed to have experienced a concussion, "whether or not the concussion took place while the student was participating in an interscholastic activity." 105 ILCS 5/22-80(d). For a comprehensive discussion of this Act, see the IASB publication *Checklist for Youth Sports Concussion Safety Act* at: [iasb.com/law/https://www.iasb.com/law/Checklistconcussionsafetyact.pdf](https://www.iasb.com/law/Checklistconcussionsafetyact.pdf). Helpful guidance for implementing this law is available from the Lurie Children's Hospital's *A Guide for Teachers and School Professionals*.
- (2) 105 ILCS 25/1.15 requires: (a) all high school coaching personnel to complete online concussion awareness training; and (b) all student athletes to view the IHSA video about concussions.
- (3) 105 ILCS 25/1.20, added by P.A. 99-831, requires the IHSA to require all member districts that have certified athletic trainers to have those trainers complete and submit a monthly report on student-athletes who have sustained a concussion during: (1a) a school-sponsored activity overseen by the athletic trainer; or (2) a school-sponsored event of which the athletic director is made aware.

The Center for Disease Control and Prevention explains that a concussion is a type of traumatic brain injury caused by a bump, blow, or jolt to the head, or by a hit to the body that causes the head and brain to move rapidly back and forth. See www.cdc.gov/headsup/index.html. The CDC website contains excellent resources for the recognition, response, and prevention of concussions, including the opportunity to order or download free educational materials on concussions that can be distributed to parents, students, and coaches.

² 105 ILCS 5/22-80, added by P.A. 99-245; amended by P.A.s 99-486, ~~and 100-309, and 100-747, eff. 1-1-19.~~

³ 105 ILCS 5/22-80(d), added by P.A. 99-245; amended by P.A.s 99-486 and 100-309. 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. The statute provides that the Team may be composed of only one person who need not be a licensed healthcare professional, however, that person may not be a coach. *Id.*

As this is administrative/staff work rather than governance work, the best practice is to have the Concussion Oversight Team be an *administrative* committee, but consult the board attorney for guidance. If it is a board committee, it must comply with the Open Meetings Act, 5 ILCS 120/1.02. For a discussion of the Open Meetings Act's treatment of committees, see the footnotes in 2:150, *Committees*.

⁴ 105 ILCS 5/22-80(d).

- i. A return-to-play protocol governing a student's return to interscholastic athletics practice or competition following a force of impact believed to have caused a concussion. The Superintendent or designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play protocol. ⁵
- ii. A return-to-learn protocol governing a student's return to the classroom following a force of impact believed to have caused a concussion. The Superintendent or designee shall supervise the person responsible for compliance with the return-to-learn protocol. ⁶
- c. Each student and the student's parent/guardian shall be required to sign a concussion information receipt form each school year before participating in an interscholastic athletic activity. ⁷
- d. A student shall be removed from an interscholastic athletic practice or competition immediately if any of the following individuals believes that the student sustained a concussion during the practice and/or competition: a coach, a physician, a game official, an athletic trainer, the student's parent/guardian, the student, or any other person deemed appropriate under the return-to-play protocol. ⁸
- e. A student who was removed from interscholastic athletic practice or competition shall be allowed to return only after all statutory prerequisites are completed, including without

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⁵ The Youth Sports Concussion Safety Act contains requirements for a student to return to play following a concussion. *Id.* The supervisor of the person responsible for compliance with the return-to-play protocol may not be a coach. The student's treating physician, physician assistant, advanced practice registered nurse, or an athletic trainer working under a physician's supervision must evaluate and find that it is safe for the student to return to play. The student's parent/guardian must sign a consent form that complies with statutory prerequisites. In addition, the student must also complete the requirements in the district's return-to-play and return-to-learn protocols. Thus, the district through its protocols may add requirements for the student's return, but may not delete any statutory requirements.

It is an open question whether the return-to-play protocol is limited to when the concussion occurred during an interscholastic athletic activity because the statute does not state "whether or not the concussion took place while the student was participating in an interscholastic athletic activity." It makes sense, however, to apply the return-to-play protocol whenever a student suffers a concussion before allowing him or her to participate in an interscholastic athletic activity. See IHSA's *Post-concussion Consent Form (RTP/RTL)* at:

ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx

⁶ 105 ILCS 5/22-80(g), added by P.A. 99-245; amended by P.A.s 99-486, ~~and 100-309, and 100-747, eff. 1-1-19~~. The supervisor of the person responsible for compliance with the return-to-learn protocol may not be a coach. The return-to-learn protocol governs a student's return to the classroom after a concussion, whether or not the concussion took place while the student was participating in an interscholastic athletic activity. Guidance from Lurie Children's Hospital explains that recovery from a concussion must be an individualized process because no two concussions are the same. See *Return to Learn after a Concussion: A Guide for Teachers and School Professionals*, Lurie Children's Hospital. This *Guide* explains that a student's full recovery depends on both cognitive rest and physical rest. It suggests using a multidisciplinary team to facilitate a student's return to the classroom and provides examples of accommodations and interventions. It also stresses the importance of identifying a school staff member who will function as a case manager or concussion management leader, such as a school nurse, athletic trainer, or school counselor. See IHSA's *Post-concussion Consent Form (RTP/RTL)* at: ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx.

⁷ 105 ILCS 5/22-80(e), added by P.A. 99-245, amended by P.A. 99-486. *Interscholastic athletic activity* is defined in Section 22-80(a) as "any organized school-sponsored or school-sanctioned activity for students, generally outside of school instructional hours, under the direction of a coach, athletic director, or band leader, including, but not limited to, baseball, basketball, cheerleading, cross country track, fencing, field hockey, football, golf, gymnastics, ice hockey, lacrosse, marching band, rugby, soccer, skating, softball, swimming and diving, tennis, track (indoor and outdoor), ultimate Frisbee, volleyball, water polo, and wrestling. The form must be approved by the Illinois High School Association (IHSA). See ihsa.org/Resources/SportsMedicine/ConcussionManagement/5ConcussionResources.aspx, for *IHSA Concussion Protocols* and *IHSA Sports Medicine Acknowledgement & Consent Form* (Concussion, PES, Asthma Medication).

⁸ 105 ILCS 5/22-80(f), added by P.A. 99-245, amended by P.A. 99-486.

limitation, the return-to-play and return-to-learn protocols developed by the Concussion Oversight Team. An athletic team coach or assistant coach may not authorize a student's return-to-play or return-to-learn. ⁹

- f. The following individuals must complete concussion training as specified in the Youth Sports Concussion Safety Act: all coaches or assistant coaches (whether volunteer or a district employee) of interscholastic athletic activities; nurses, licensed healthcare professionals or non-licensed healthcare professionals who serve on the Concussion Oversight Team (whether or not they serve on a volunteer basis); athletic trainers; game officials of interscholastic athletic activities; and physicians who serve on the Concussion Oversight Team. ¹⁰
 - g. The Board shall approve school-specific emergency action plans for interscholastic athletic activities to address the serious injuries and acute medical conditions in which a student's condition may deteriorate rapidly. ¹¹
2. Comply with the concussion protocols, policies, and by-laws of the Illinois High School Association (IHSA), including its *Protocol for Implementation of NFHS Sports Playing Rules for Concussion*, which includes its *Return to Play (RTP) Policy*.¹² These specifically require that:
- a. A student athlete who exhibits signs, symptoms, or behaviors consistent with a concussion in a practice or game shall be removed from participation or competition at that time.
 - b. A student athlete who has been removed from an interscholastic contest for a possible concussion or head injury may not return to that contest unless cleared to do so by a physician licensed to practice medicine in all its branches in Illinois or a certified athletic trainer.
 - c. If not cleared to return to that contest, a student athlete may not return to play or practice until the student athlete has provided his or her school with written clearance from a

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⁹ 105 ILCS 5/22-80(g), added by P.A. 99-245, amended by P.A.s 99-486, ~~and 100-309, and 100-747, eff. 1-1-19~~. Most students with a concussion will not need a formal 504 plan or individualized education program; contact the board attorney whenever one is requested or the student's symptoms are prolonged.

¹⁰ 105 ILCS 5/22-80(h), added by P.A. 99-245, amended by P.A.s 99-486 and 100-309. Individuals covered by this training mandate must take a training course from an authorized training provider prior to serving on a Concussion Oversight Team (Team) and at least once every two years (or if not serving on the Team, at least once every two years). See the footnotes in 5:100, *Staff Development Program*. Physicians on Teams are required, to the greatest extent practicable, to periodically take an appropriate medical course on concussions. 105 ILCS 5/22-80(h)(3).

Note: *Licensed healthcare professionals* includes nurses and licensed clinical psychologists, physical therapists, occupational therapists, physicians' assistants, and athletic trainers working under the supervision of a physician. 105 ILCS 5/22-80(b). *Non-licensed healthcare professionals* is not specifically defined. Therefore, it is not entirely clear if a Team may include an individual, i.e., a building principal that is not mandated to take the training. As a matter of best practice and to reduce liability, all Team members should receive the training; however, consult with the board attorney for further guidance.

¹¹ 105 ILCS 5/22-80(i), added by P.A. 99-245; amended by P.A. 99-486. A template is available on the IHSA website under *Emergency Action Plan (EAP) Resources* at: ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx.

¹² The *Protocol for Implementation of NFHS Sports Playing Rules for Concussion* (<http://ihsa.org/documents/sportsMedicine/Concussion%20Protocols.pdf>) contains concussion information, provides instructions when a student athlete sustains an apparent concussion, and includes a *Return to Play (RTP) Policy*. The *Return to Play (RTP) Policy* addresses the requirements for returning a student athlete to play after he or she exhibits signs, symptoms, or behaviors of a concussion.

physician licensed to practice medicine in all its branches in Illinois, advanced practice registered nurse, physician assistant or a certified athletic trainer working in conjunction with a physician licensed to practice medicine in all its branches in Illinois.¹³

3. Require that all high school coaching personnel, including the head and assistant coaches, and athletic directors obtain online concussion certification by completing online concussion awareness training in accordance with 105 ILCS 25/1.15. ¹⁴
4. Require all student athletes to view the ~~Illinois High School Association's~~IHSA video about concussions. ¹⁵
5. Inform student athletes and their parent(s)/guardian(s) about this policy in the *Agreement to Participate* or other written instrument that a student athlete and his or her parent/guardian must sign before the student is allowed to participate in a practice or interscholastic competition. ¹⁶
6. Provide coaches and student athletes and their parent(s)/guardian(s) with educational materials from the ~~Illinois High School Association~~IHSA regarding the nature and risk of concussions and head injuries, including the risks inherent in continuing to play after a concussion or head injury. ¹⁷
7. Include a requirement for staff members to notify the parent/guardian of a student who exhibits symptoms consistent with that of a concussion. ¹⁸

~~7.8. Include a requirement for staff members to distribute the Ill. Dept. of Public Health concussion brochure to any student or the parent/guardian of a student who may have sustained a concussion, regardless of whether or not the concussion occurred while the student was participating in an interscholastic athletic activity, if available.~~ ¹⁹

[For high school districts that belong to the IHSA and have certified athletic trainers.]

- ~~8.9. Include a requirement for certified athletic trainers to complete and submit a monthly report to the ~~Illinois High School Association~~IHSA on student-athletes who have sustained a~~

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¹³ 105 ILCS 5/22-80(g)(4), amended by P.A.s 100-309 and 100-747, eff. 1-1-19, and 225 ILCS 65/20-10, amended by P.A. 100-513. P.A. 100-513 amended the Nurse Practice Act to add *registered* to the definition of *advanced practice registered nurse*; accordingly, this policy reflects that change in terminology, even though P.A. 100-747, eff. 1-1-19, similarly amended Section 22-80 was not similarly amended.

¹⁴ 105 ILCS 25/1.15(b) requires high school coaching personnel and athletic directors hired before 8-18-14 to have been certified by 8-19-15. Coaching personnel and athletic directors hired on or after 8-19-14 must be certified before the starting date of their position.

¹⁵ 105 ILCS 25/1.15(e).

¹⁶ Required by 23 Ill.Admin.Code §1.530(b). IHSA drafted a sample *Concussion Information Sheet*, which is included within the *IHSA Sports Medicine Acknowledgement & Consent Form* and has been incorporated into 7:300-E1, *Agreement to Participate*. See: ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx.

An ISBE rule defines *health-related information* to include a concussion policy acknowledgment 23 Ill.Admin.Code §375.10. The acknowledgment, therefore, must be kept with the student's school student records as a temporary record. 23 Ill.Admin.Code §375.40.

¹⁷ IHSA has produced educational materials on concussions for coaches, parents/guardians, student athletes, and the school and health care providers on concussions. See: ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx.

¹⁸ This provision is optional.

¹⁹ Required by 20 ILCS 2310/2310-307, added by P.A. 100-747, eff. 1-1-19.

concussion during: 1) a school-sponsored activity overseen by the athletic trainer; or 2) a school-sponsored event of which the athletic director is made aware.²⁰

LEGAL REF.: 105 ILCS 5/22-80.
105 ILCS 25/1.15.

CROSS REF.: 4:170 (Safety), 5:100 (Staff Development Program), 7:300 (Extracurricular Athletics)

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²⁰ Required by 105 ILCS 25/1.20, added by P.A. 99-831, for high school districts that belong to the IHSA and have certified athletic trainers.

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, and establishing an equal employment opportunity policy that prohibits unlawful discrimination. ³
4. Directing, through policy, the Superintendent, in his or her charge of the District's administration. ⁴
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. ⁵
6. Entering contracts using the public bidding procedure when required. ⁶
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. ⁷

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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, ~~should use the following to replace the default text in number 1 with the following rather than the default text:~~

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 5/1-et seq., (Ill.inois Educational Labor Relations Act).~~

³ 105 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 the policies in the PRESS Policy Reference Manual Sections 3, General School Administration, and 5, Personnel.

⁴ 105 ILCS 5/10-16.7.

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

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

⁷ 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*.

8. Establishing an equal educational opportunities policy that prohibits unlawful discrimination. ⁸
9. Approving the curriculum, textbooks, and educational services. ⁹
10. Evaluating the educational program and approving School Improvement and District Improvement Plans. ¹⁰
11. Presenting the District report card and School report card(s) to parent(s)/guardian(s) and the community; these documents report District, School, and student performance. ¹¹
12. Establishing and supporting student behaviordiscipline policies designed to maintain an environment conducive to learning, including deciding individual student suspension or expulsion cases brought before it. ¹²
13. Establishing attendance units within the District and assigning students to the schools. ¹³
14. Establishing the school year. ¹⁴
15. Requiring a moment of silence to recognize veterans during any type of school event held at a District school on November 11. ¹⁵
16. Providing student transportation services pursuant to State law. ¹⁶
17. Entering into joint agreements with other boards to establish cooperative educational programs or provide educational facilities. ¹⁷
18. Complying with requirements in the Abused and Neglected Child Reporting Act. 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 the Act, direct or cause the Board to direct the Superintendent or other equivalent school administrator to comply with the Act's requirements concerning the reporting of child abuse. ¹⁸
19. Communicating the schools' activities and operations to the community and representing the needs and desires of the community in educational matters. ¹⁹

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⁸ Many civil rights laws guarantee equal educational opportunities; see policy 7:10, *Equal Educational Opportunities*.

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

¹⁰ 105 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 policies 6:10, Educational Philosophy and Objectives; and fn 6 in policy 6:15, School Accountability.

¹¹ 105 ILCS 5/10-17a, amended by P.A.s 100-364, 100-465, 100-807, and 100-863. 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.

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

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

¹⁴ 105 ILCS 5/10-19, amended by P.A. 100-465, and 23 Ill.Admin.Code §1.420, amended at 42 Ill. Reg. 11512. See policy 6:20, *School Year Calendar and Day*.

¹⁵ Recognizing veterans on Nov. 11 is required by 105 ILCS 5/10-20.46.

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

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

¹⁸ 325 ILCS 5/4. Abuse and neglect are defined in 325 ILCS 5/3; for a disabled adult student see 20 ILCS 1305/1-17(b).

¹⁹ See policy 8:10, *Connection with the Community*.

Indemnification 20

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.

LEGAL REF.: 105 ILCS ~~5/2-3.25d~~, 5/10, 5/17-1, and 5/27-1.
115 ILCS 5/, [Illinois Educational Labor Relations Act](#).
325 ILCS 5/4, [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), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:90 (Abused and Neglected Child Reporting), 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)

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

20 105 ILCS 5/10-20.20 (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 Twsp. Bd. of Auditors v. Ludwig](#), [154 Ill.App.3d 899507 N.E.2d 199 \(2nd Dist. Ill. App. 2d, 1987\)](#). 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.

School Board

Board Member Qualifications ¹

A School Board member must be, on the date of election or appointment, a United States citizen, at least 18 years of age, a resident of Illinois and the District for at least one year immediately preceding the election, and a registered voter.

Reasons making an individual ineligible for Board membership include holding an incompatible office and certain types of State or federal employment.² A child sex offender, as defined in State law, is ineligible for School Board membership.³

LEGAL REF.: Ill. Constitution, Art. II, §1; Art. IV, §2(e); Art. VI, §13(b).
105 ILCS 5/10-3 and 5/10-10.

CROSS REF.: 2:30 (School Board Elections), 2:70 (Vacancies on the School Board - Filling Vacancies)

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. Election qualifications are found in 105 ILCS 5/10-3 and 5/10-10. Except for possible residency requirements, there are no general eligibility qualifications for appointment to a board; this sample policy, however, applies the election qualifications to appointments. This is possible because the board controls the appointment process. See policy 2:70, *Vacancies on the School Board - Filling Vacancies*. Boards may describe additional residency requirements, if any, in the following optional sentence:

“On the date of election or appointment, Board members must also meet the following residential requirement: *[insert]*.”²

105 ILCS 5/10-10 allows a board to appoint a student to the board to serve in an advisory capacity for a term the board determines. The student may not vote or attend any closed board meeting. A board that desires to appoint a student member may include this paragraph at the end of this policy, adding the manner the student member is selected as appropriate:

The Board will annually appoint a student member to serve in an advisory capacity. The student member will not have any voting privileges and may not attend executive sessions of the Board.

² Prohibitions on simultaneously holding more than one public office, known as the doctrine of incompatibility of offices, arise from the constitutional concept of separation of offices. Appellate decisions have held that incompatibility arises if the duties of one office would necessarily prevent the office holder from faithfully performing all the duties of the other office. -Express statutory prohibitions involving a school board member and another office are rare but do exist. For example, a school trustee may not also be a board member. (105 ILCS 5/10-3 and 5/10-10). Dual office holding is discussed in the Ill. Council of School Attorneys' publications, *Answers to FAQs, Conflict of Interest and Incompatible Offices*, www.iasb.com/law/conflict.cfm, www.iasb.com/law/COI_FAQ.pdf, and *Answers to FAQs, Vacancies on the Board of Education*, www.iasb.com/law/vacancies.cfm.

³ 105 ILCS 5/10-3 and 5/10-10. The definition of child sex offender is found in 720 ILCS 5/11-9.3 and is contained in administrative procedure 8:30-AP, *Definition of Child Sex Offender*. But see *People v. Kochevar*, 2018 WL 3968383 (3rd Dist. 2018) (finding that Ill. statutory sex offender scheme, as applied to Kochevar, violated his rights under the [E]ighth [A]mendment to the United States Constitution and the proportionate penalties clause of the Ill. Constitution (he was convicted of criminal sexual abuse with a 16-year-old with whom he, at 18, had a relationship) when nothing in the record suggested that he had targeted children, targeted underage girls, or even targeted the victim).

School Board

Board Member Term of Office ¹

The term of office for a School Board member begins immediately after both of the following occur:

1. The election authority canvasses the votes and declares the winner(s); this occurs within 21 days after the consolidated election held on the first Tuesday in April in odd-numbered years.
2. The successful candidate takes the oath of office as provided in Board policy 2:80, *Board Member Oath and Conduct*. ²

The term ends 4 years later when the successor assumes office. ³

LEGAL REF.: 10 ILCS 5/2A-1.1, 5/22-17, and 5/22-18.
105 ILCS 5/10-10, 5/10-16, and 5/10-16.5.

CROSS REF.: 2:30 (School District Elections), 2:80 (Board Member Oath and Conduct), 2:210 (Organizational School Board Meeting)

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 oath requirement is mandated by 105 ILCS 5/10-16.5, amended by P.A. 100-1055.

³ All local canvassing boards were abolished in 2006. The appropriate *election authority* (county clerk or election commission, if one was established under Article 6A of the Election Code) canvasses the vote for school district elections. (10 ILCS 5/1-8). The election authority is responsible for school board member elections. (10 ILCS 5/1-3(8)). Any provision in the School Code to the contrary is superseded and ineffective.

The election authority must canvass the vote within 21 days after the election. (See 10 ILCS 5/22-17 and 5/22-18). Within 28 days after the consolidated election, boards must hold an organizational meeting to elect electing officers and fix a time and place for the regular meetings. (105 ILCS 5/10-16).

The board, by resolution, may submit to the district's voters the question of increasing the term from four to six years to the district's voters. (105 ILCS 5/9-5). If the board has increased the term, edit the text of the policy to reflect it.

School Board

Board Member Removal from Office 1

If a majority of the School Board determines that a Board member has willfully failed to perform his or her official duties, it may request the Regional Superintendent to remove such member from office. ²

LEGAL REF.: 105 ILCS 5/3-15.5.

CROSS REF.: 2:70 (Vacancies on the School Board - Filling Vacancies)

~~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 Neither the voters nor the board has the authority to recall or remove a board member from office. The Regional Superintendent has the power to remove any board member from office for willful failure to perform official duties. (105 ILCS 5/3-15.5). The "majority of the board" requirement in this policy has no legal significance other than being standard operating procedure. The Regional Superintendent may act on his or her initiative.

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

A *quo warranto* action is a rarely used method to remove a board member from office. This type of lawsuit is generally used to remove someone who holds office unlawfully, among other things. (735 ILCS 5/18-101). These actions are generally brought by the Ill. Atty. Gen. (AG) or the appropriate State's Attorney. If neither of them brings the suit, it may be brought by a plaintiff after (1) he or she requests the AG and State's Attorney to bring a *quo warranto* lawsuit, (2) they fail to do it, and (3) the circuit court with jurisdiction grants permission for the plaintiff to file the lawsuit (see the *Niekamp* case below). After receiving a court's permission to bring the suit, a plaintiff must post a bond when filing the proceeding. If the lawsuit is unsuccessful, the plaintiff must pay the defendant's attorney fees and costs. Depending upon the violation, the law allows the court to impose a \$25,000 fine or remove the board member from office. Notable cases involving *quo warranto* actions against school board members in Illinois include:

1. *Ballard v. Niekamp*, 961 N.E.2d 288 (Ill. App. 4, 2011) (affirming the ousting of a school board member for holding an incompatible office; the fellow school board members brought a *quo warranto* action asking the court to remove him from the school board).
2. *Parker v. Lyons, et al.*, 2012 WL 7005827 (Ill. App. 3, 2012) ~~IL App (3d) 110140-U~~ (potential school board candidate had two felony convictions; the trial court allowed the State's *quo warranto* action barring him from running for the school board); *People ex rel. Lyons v. Parker*, 940 F.Supp.2d 832 (Ill. 2012) (petition for leave to appeal denied); *Parker v. Illinois*, 569 U.S. 933 ~~133 S.Ct. 1828~~ (2013) (petition for writ of certiorari to the ~~U.S. Supreme Appellate Court of Illinois, Third District~~, denied).

School Board

Access to District Public Records ¹

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

Freedom of Information Officer ³

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

Definition ⁴

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

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

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

Any person denied access to a public record may request a review by the Ill. Public Access Counselor (PAC) established in the office of the Ill. Attorney General. (5 ILCS 140/9.5). As a result of the review, the PAC may issue an opinion binding on the requester and public body. IASB reports on the opinions relevant to school districts on its website at: www.iasb.com/law/decisions.cfm?SubjectArea=Freedom%20of%20Information%20Act%20-%20FOIA.

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

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

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

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

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

Requesting Records ⁵

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

Responding to Requests

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

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

Within five business days after receipt of a request for access to a public record, the Freedom of Information Officer shall comply with or deny the request, unless the time for response is extended as specified in Section 3 of FOIA. ⁹ The Freedom of Information Officer may extend the time for a

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⁵ This section restates 5 ILCS 140/3(c). Districts may, but are not required to, accept oral requests. Compliance with an oral request may stave off the formal written request and permit more flexibility in the response. ~~Add this option if the district wants to accept oral requests, delete must be made in writing and from the first sentence and add the following:~~

~~"Oral requests may be accepted provided personnel are available to handle them, but otherwise must be made in writing."~~

The response to an oral request should be documented. Districts may provide a request form for convenience but may not require its use. See 2:250-E1, *Written Request for District Public Records*.

⁶ FOIA does not require a public body to create a record. (5 ILCS 140/1). However, compiling information already in the public body's possession into a different format in order to respond to a FOIA request does not constitute the creation of a new record (PAO 15-10). See also *Hites v. Waubesa Community College*, 56 N.E.3d 1049 (Ill. App. 2, 2016), 2016 WL 150836 (Ill. App. Ct. June 6, 2016) (holding that databases which that house aggregations of data and ~~do~~ not merely store documents are subject to FOIA).

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

Two State laws limit the disclosure of employee personnel evaluations:

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

⁸ 5 ILCS 140/3(g).

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

response for up to five business days from the original due date.¹⁰ If an extension is needed, the Freedom of Information Officer shall: (1) notify the person making the request of the reason for the extension, and (2) either inform the person of the date on which a response will be made, or agree with the person in writing on a compliance period. ¹¹

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

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

Fees ¹⁴

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

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

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¹⁰ 5 ILCS 140/3(e).

¹¹ 5 ILCS 140/3(f). A board may replace the default paragraph with the following alternative: “

The Freedom of Information Officer shall respond to record requests according to the time periods described in Section 3 of FOIA.”

¹² The timelines are extended to respond to a: (1) *recurrent requester* (defined in ~~See 5 ILCS 140/-2(g)~~); (2) request with a *commercial purpose* (defined in ~~See 5 ILCS 140/2(c-10)~~); and (3) *voluminous request* (defined in ~~See 5 ILCS 140/2(h)~~). To use the extended timelines, a district must follow the requirements in ~~See 5 ILCS 140/-3.2~~ for responding to a *recurrent requester*; ~~See 5 ILCS 140/-3.1~~ for responding to a request with a *commercial purpose*; and ~~See 5 ILCS 140/3.6 (added by P.A. 98-1129)~~ for responding to a *voluminous request*. See the administrative procedure, 2:250-AP1, *Access to and Copying of District Public Records*, for additional information.

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

¹⁴ 5 ILCS 140/6, ~~amended by P.A. 98-1129~~. The first paragraph's intent is to be efficient and avoid paraphrasing a complex law. ~~The procedure See 2:250-AP1, Access to and Copying of District Public Records, contains for a fee schedule identifying the maximum fees permitted.~~

~~Section 5 ILCS 140/6(a)~~ states: “If a request is *not* a request for a *commercial purpose* or a *voluminous request*, a public body *may not* charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records.” (Emphasis added.) This implies that a search and review fee may be charged when responding to a request for a *commercial purpose* or a *voluminous request*. However, ~~5 ILCS 140/See-6(b)~~ states that the search and review fee described in ~~5 ILCS 140/See-6(f)~~ may be charged *only* to someone making a *commercial request*. ~~5 ILCS 140/See-6(f)~~ contains the maximum amounts that may be charged for search and review but does not explain when they may be charged. The FOIA Officer will need to consult the board attorney concerning fees.

legal sized copies, or (2) electronic copies other than the actual cost of the recording medium, except if the response is to a *voluminous request*, as defined in FOIA.

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

Provision of Copies and Access to Records

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

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

Preserving Public Records

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

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

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

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

¹⁷ 5 ILCS 140/4. A district may reduce FOIA requests by posting records on its website. Many records are required to be web-posted, see 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. If the district does not have a website, change this paragraph as follows: "²⁰

Some public records are available for immediate access including a description of the process for requesting a public record, and a list of all types or categories of records under its control."²¹

For a list of required web-postings, see ~~exhibit~~ 2:250-E2, *Immediately Available District Public Records and Web-Posted Reports and Records*. Using the district's website is also a convenient way to comply with FOIA's requirement to identify documents that are *immediately* available. (5 ILCS 140/3.5(a)). Although not required to be web-posted, a list of all types or categories of records under its control must be prepared and made available. (5 ILCS 140/5); ²² See 2:250-AP1, *Access to and Copying of District Public Records*.

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

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

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

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

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

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

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

The Prevailing Wage Act (820 ILCS 130/5, amended by P.A. 100-1177, eff. 6-1-19) requires contractors, while participating in public works, to keep certified payroll records of all laborers, mechanics, and other workers employed by them on the project and to submit this record no later than the 15th of the month to the public body, until the Ill. Dept. of Labor (IDOL) activates an electronic database for certified payrolls no later than 4-1-20, at which time contractors will submit certified payrolls only to that database. Id. The public body in charge of the project must keep the records submitted before 1-1-14 for a period of not less than three years. Records submitted on or after 1-1-14 must be kept for a period of five years or until the IDOL activates the electronic database for certified payrolls, whichever is less. Id. Records may be retained in paper or electronic format. These records are considered public records, except for contractors' employees' addresses, telephone numbers, social security numbers, race, ethnicity, and gender, and they must be made available in accordance with FOIA except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted before disclosure (5 ILCS 140/2.10). Id. Note: 820 ILCS 130/5, amended by P.A. 100-1177, eff. 6-1-19, requires contractors to maintain records of the race, ethnicity, gender, and veteran status of workers on a public works project. FOIA, however, was not similarly amended to require public bodies to redact the workers' race, ethnicity, and gender from certified payroll records before disclosure. See 5 ILCS 140/2.10. The Ill. Atty. Gen. has previously issued at least one non-binding opinion finding that disclosure of a person's gender is not an unwarranted invasion of personal privacy under 5 ILCS 140/7(1)(c). Districts should consult with their board attorneys regarding what categories of information may be properly redacted in response to a FOIA request for certified payroll records.

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

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- 4:60-AP4 Administrative Procedure - Federal Award Procurement Procedures
- 4:60-AP4, E1 Exhibit - Internal Procedures for Procurement Transactions
- 4:60-E Exhibit - Notice to Contractors
- 4:70 Resource Conservation
- 4:70-AP Administrative Procedure - Resource Conservation
- 4:80 Accounting and Audits
- 4:80-AP1 Administrative Procedure - Checklist for Internal Controls
- 4:80-AP2 – Administrative Procedure - Fraud, Waste, and Abuse Awareness Program
- 4:90 Activity Funds
- 4:100 Insurance Management

Operations

- 4:110 Transportation
 - 4:110-AP1 Administrative Procedure - School Bus Post-Accident Checklist
 - 4:110-AP2 Administrative Procedure - Bus Driver Communication Devices; Pre-Trip and Post-Trip Inspection; Bus Driving Comments
 - 4:110-AP3 Administrative Procedure - School Bus Safety Rules
 - 4:110-E Exhibit - Emergency Medical Information for Students Having Special Needs or Medical Conditions Who Ride School Buses
- 4:120 Food Services
 - 4:120-AP Administrative Procedure - Food Services; Competitive Foods; Exemptions
- 4:130 Free and Reduced-Price Food Services
 - 4:130-E Exhibit - Free and Reduced-Price Food Services; Meal Charge Notifications
- 4:140 Waiver of Student Fees
 - 4:140-AP Administrative Procedure - Fines, Fees, and Charges - Waiver of Student Fees
 - 4:140-E1 Exhibit - Application for Fee Waiver
 - 4:140-E2 Exhibit - Response to Application for Fee Waiver, Appeal, and Response to Appeal
 - 4:140-E3 Exhibit - Resolution to Increase Driver Education Fees
- 4:150 Facility Management and Building Programs
- 4:160 Environmental Quality of Buildings and Grounds
 - 4:160-AP Administrative Procedure - Environmental Quality of Buildings and Grounds

Safety and Security

- 4:170 Safety
 - 4:170-AP1 Administrative Procedure - Comprehensive Safety and Security Plan

- 4:170-AP1, E1 Exhibit - Accident or Injury Form
- 4:170-AP1, E2 Exhibit - Memo to Staff Members Regarding Contacts by Media About a Crisis
- 4:170-AP2 Administrative Procedure - Routine Communications Concerning Safety and Security
- 4:170-AP2, E1 Exhibit - Letter to Parents/Guardians Regarding Student Safety
- 4:170-AP2, E2 Exhibit - Letter to Parents/Guardians Regarding ~~Educational Programs About~~ the Dangers of Underage Drinking
- 4:170-AP2, E3 Exhibit - Letter to Parents/Guardians About Disruptive Social Media Apps; Dangers
- 4:170-AP2, E4 Exhibit - Letter to Parents/Guardians About Preventing and Reducing Incidences of Sexting
- 4:170-AP3 OPEN
- 4:170-AP4 Administrative Procedure - National Terrorism Advisory System
- 4:170-AP5 Administrative Procedure - Unsafe School Choice Option
- 4:170-AP6 Administrative Procedure - Plan for Responding to a Medical Emergency at a Physical Fitness Facility with an AED
- 4:170-AP6, E1 Exhibit - School Staff AED Notification Letter
- 4:170-AP6, E2 Exhibit - Notification to Staff and Parents/Guardians of CPR and AED Video
- 4:170-AP7 ~~OPEN Administrative Procedure - Targeted School Violence Prevention Program~~
- 4:170-AP7, E1 ~~OPEN Exhibit - Threat Assessment Decision Tree~~
- 4:170-AP7, E2 ~~OPEN Exhibit - Threat Assessment Documentation and Response~~
- 4:170-AP7, E3 ~~OPEN Exhibit - Targeted School Violence Prevention and Threat Assessment Education~~
- 4:170-AP8 Administrative Procedure - Movable Soccer Goal Safety
- 4:175 Convicted Child Sex Offender; Screening; Notifications
- 4:175-AP1 Administrative Procedure - Criminal Offender Notification Laws; Screening
- 4:175-AP1, E1 Exhibit - Informing Parents/Guardians About Offender Community Notification Laws
- 4:180 Pandemic Preparedness
- 4:180-AP1 Administrative Procedure - School Action Steps for Pandemic Influenza
- 4:180-AP2 Administrative Procedure - Pandemic Influenza Surveillance and Reporting
- 4:190 Targeted School Violence Prevention Program
- 4:190-AP1 Administrative Procedure - Targeted School Violence Prevention Program
- 4:190-AP1, E1 Exhibit - Targeted School Violence Prevention Program Resources

<u>4:190-AP2</u>	<u>Administrative Procedure - Threat Assessment Team (TAT)</u>
<u>4:190-AP2, E1</u>	<u>Exhibit - Principles of Threat Assessment</u>
<u>4:190-AP2, E2</u>	<u>Exhibit - Threat Assessment Documentation</u>
<u>4:190-AP2, E3</u>	<u>Exhibit - Threat Assessment Key Areas and Questions; Examples</u>
<u>4:190-AP2, E4</u>	<u>Exhibit - Responding to Types of Threats</u>
<u>4:190-AP2, E5</u>	<u>Exhibit - Threat Assessment Case Management Strategies</u>
<u>4:190-AP2, E6</u>	<u>Exhibit - Targeted School Violence Prevention and Threat Assessment Education</u>

Operational Services

Revenue and Investments 1

Revenue

The Superintendent or designee is responsible for making all claims for property tax revenue, State Aid, special State funds for specific programs, federal funds, and categorical grants.

Investments

The Superintendent shall either appoint a Chief Investment Officer or serve as one.² The Chief Investment Officer shall invest money that is not required for current operations, in accordance with this policy and State law.³

The Chief Investment Officer and Superintendent shall use the standard of prudence when making investment decisions. They shall use the judgment and care, under circumstances then prevailing, that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the safety of their capital as well as its probable income.⁴

Investment Objectives 5

The objectives for the School District's investment activities are:

1. Safety of Principal - Every investment is made with safety as the primary and over-riding concern. Each investment transaction shall ensure that capital loss, whether from credit or market risk, is avoided.
2. Liquidity - The investment portfolio shall provide sufficient liquidity to pay District obligations as they become due. In this regard, the maturity and marketability of investments shall be considered.
3. Rate of Return - The highest return on investments is sought, consistent with the preservation of principal and prudent investment principles.
4. Diversification - The investment portfolio is diversified as to materials and investments, as appropriate to the nature, purpose, and amount of the funds.

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¹ Each district must have an investment policy ~~(30 ILCS 235/2.5)~~; its detail and complexity must be appropriate to the nature of the funds, the funds' purpose, and the amount of the public funds within the investment portfolio. 30 ILCS 235/2.5(a).

² 30 ILCS 235/2.5(a)(7). Districts having a chief business official may use this alternative: "The Chief Business Official shall serve as the District's Chief Investment Officer." If a Township Treasurer manages the district funds, substitute this sentence: "

The Township Treasurer shall serve as the Chief Investment Officer."

³ Township and school treasurers are authorized by 105 ILCS 5/8-7 to enter into agreements regarding the deposit, investment, and withdrawal of district funds.

⁴ The policy must include a standard of care. ~~(30 ILCS 235/2.5(a)(2))~~.

⁵ The policy must address safety, liquidity, return (30 ILCS 235/2.5(a)), as well as diversification (30 ILCS 235/2.5(a)(4)). These objectives also serve as investment guidelines. ~~(30 ILCS 235/2.5(a)(3))~~. How these are addressed is at the board's discretion.

Authorized Investments 6

The Chief Investment Officer may invest District funds in one or more of the following:

1. Bonds, notes, certificates of indebtedness, treasury bills, or other securities now or hereafter issued, that are guaranteed by the full faith and credit of the United States of America as to principal and interest.
2. Bonds, notes, debentures, or other similar obligations of the United States of America, its agencies, and its instrumentalities.

The term "agencies of the United States of America" includes: (a) the federal land banks, federal intermediate credit banks, banks for cooperative, federal farm credit banks, or any other entity authorized to issue debt obligations under the Farm Credit Act of 1971 and Acts amendatory thereto, (b) the federal home loan banks and the federal home loan mortgage corporation, and (c) any other agency created by Act of Congress.

3. Interest-bearing savings accounts, interest-bearing certificates of deposit or interest-bearing time deposits or any other investments constituting direct obligations of any bank as defined by the Illinois Banking Act.
4. ~~Short term~~ Obligations of corporations organized in the United States with assets exceeding \$500,000,000 if: (a) such obligations are rated at the time of purchase at one of the ~~three~~3 highest classifications established by at least ~~two~~2 standard rating services and that mature not later than ~~270 three years~~days from the date of purchase, (b) such purchases do not exceed 10% of the corporation's outstanding obligations, and (c) no more than one-third of the District's funds may be invested in short term obligations of corporations.
5. Money market mutual funds registered under the Investment Company Act of 1940, provided that the portfolio of any such money market mutual fund is limited to obligations described in paragraph (1) or (2) and to agreements to repurchase such obligations.
6. Interest-bearing bonds of any county, township, city, village, incorporated town, municipal corporation, school district, the State of Illinois, any other state, or any political subdivision or agency of the State of Illinois or any other state, whether the interest earned is taxable or tax-exempt under federal law. The bonds shall be (a) registered in the name of the municipality, county, or other governmental unit, or held under a custodial agreement at a bank, and (b) rated at the time of purchase within the ~~four~~4 highest general classifications

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⁶ The policy must contain a "listing of authorized investments." (30 ILCS 235/2.5(a)(1). 30 ILCS 235/2(a-1), amended by P.A. 98-297, now allows school districts to invest public funds in interest-bearing bonds of any local government (see paragraph 6). Investments from which a board may choose are all listed in this policy. (See 30 ILCS 235/2, amended by P.A. 100-752). Alternatively, a board may refer to that law by stating: "

The Chief Investment Officer may invest any District funds in any investment as authorized in 30 ILCS 235/2, and Acts amendatory thereto."

Some attorneys are of the opinion that the Investment of Municipal Funds Act (IMFA) (50 ILCS 340/) authorizes school districts to invest funds in certain tax anticipation warrants. The IMFA applies to counties, park districts, sanitary districts, and other municipal corporations. Id. at 340/1. Municipal corporation is not specifically defined in the IMFA. Consult with the board attorney and/or bond counsel regarding the authority for such investments and the inclusion of the IMFA in this policy.

As part of its mission to protect public entities, the Municipal Securities Rulemaking Board (MSRB) has the following resources available that school officials may find helpful:

A State and Local Government Toolkit at: www.msrb.org/EducationCenter/Issuers/Issuing.aspx www.msrb.org/MSRB-For/Issuers/Issuer-Toolkit.aspx. It provides information about bond issuance and, required disclosures, and working with municipal advisors.

Resources about issuing bonds at: www.msrb.org/MSRB-For/Issuers.aspx.

established by a rating service of nationally recognized expertise in rating bonds of states and their political subdivisions.

7. Short term discount obligations of the Federal National Mortgage Association or in shares or other forms of securities legally issuable by savings banks or savings and loan associations incorporated under the laws of this State or any other state or under the laws of the United States. Investments may be made only in those savings banks or savings and loan associations, the shares, or investment certificates that are insured by the Federal Deposit Insurance Corporation. Any such securities may be purchased at the offering or market price thereof at the time of such purchase. All such securities so purchased shall mature or be redeemable on a date or dates prior to the time when, in the judgment of the Chief Investment Officer, the public funds so invested will be required for expenditure by the District or its governing authority.
8. Dividend-bearing share accounts, share certificate accounts, or class of share accounts of a credit union chartered under the laws of this State or the laws of the United States; provided, however, the principle office of any such credit union must be located within the State of Illinois. Investments may be made only in those credit unions the accounts of which are insured by applicable law.
9. A Public Treasurers' Investment Pool created under Section 17 of the State Treasurer Act. The District may also invest any public funds in a fund managed, operated, and administered by a bank, subsidiary of a bank, or subsidiary of a bank holding company or use the services of such an entity to hold and invest or advise regarding the investment of any public funds.
10. The Illinois School District Liquid Asset Fund Plus. 7
11. Repurchase agreements of government securities having the meaning set out in the Government Securities Act of 1986, as now or hereafter amended or succeeded, subject to the provisions of said Act and the regulations issued there under. The government securities, unless registered or inscribed in the name of the District, shall be purchased through banks or trust companies authorized to do business in the State of Illinois.

Except for repurchase agreements of government securities that are subject to the Government Securities Act of 1986, as now or hereafter amended or succeeded, the District may not purchase or invest in instruments that constitute repurchase agreements, and no financial institution may enter into such an agreement with or on behalf of the District unless the instrument and the transaction meet all of the following requirements:

- a. The securities, unless registered or inscribed in the name of the District, are purchased through banks or trust companies authorized to do business in the State of Illinois.
- b. The Chief Investment Officer, after ascertaining which firm will give the most favorable rate of interest, directs the custodial bank to "purchase" specified securities from a designated institution. The "custodial bank" is the bank or trust company, or agency of government, that acts for the District in connection with repurchase agreements involving

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7 The Illinois School District Liquid Asset Fund Plus is an Illinois trust organized to permit Illinois school districts, community colleges, and educational service regions to pool their investment funds to obtain the highest possible investment yield consistent with maintaining liquidity and preserving capital, and to engage in cooperative cash management activities resulting in more efficient financial resource utilization. The program was developed in cooperation with the ~~Illinois~~ Association of School Boards, the ~~Illinois-III~~ Association of School Business Officials, and the ~~Illinois-III~~ Association of School Administrators. To receive marketing information and the name of the marketing representative, contact: PMA Financial Network, Inc., Illinois School District Liquid Asset Fund Plus, www.isdlafplus.com, 27545 Diehl Road 2135 City Gate Lane, 7th Floor, Warrenville/Naperville, Illinois 6056355; or call 1-866-747-4477.

the investment of funds by the District. The State Treasurer may act as custodial bank for public agencies executing repurchase agreements.

- c. A custodial bank must be a member bank of the Federal Reserve System or maintain accounts with member banks. All transfers of book-entry securities must be accomplished on a Reserve Bank's computer records through a member bank of the Federal Reserve System. These securities must be credited to the District on the records of the custodial bank and the transaction must be confirmed in writing to the District by the custodial bank.
- d. Trading partners shall be limited to banks or trust companies authorized to do business in the State of Illinois or to registered primary reporting dealers.
- e. The security interest must be perfected.
- f. The District enters into a written master repurchase agreement that outlines the basic responsibilities and liabilities of both buyer and seller.
- g. Agreements shall be for periods of 330 days or less.
- h. The Chief Investment Officer informs the custodial bank in writing of the maturity details of the repurchase agreement.
- i. The custodial bank must take delivery of and maintain the securities in its custody for the account of the District and confirm the transaction in writing to the District. The custodial undertaking shall provide that the custodian takes possession of the securities exclusively for the District; that the securities are free of any claims against the trading partner; and that any claims by the custodian are subordinate to the District's claims to rights to those securities.
- j. The obligations purchased by the District may only be sold or presented for redemption or payment by the fiscal agent bank or trust company holding the obligations upon the written instruction of the Chief Investment Officer.
- k. The custodial bank shall be liable to the District for any monetary loss suffered by the District due to the failure of the custodial bank to take and maintain possession of such securities.

12. Any investment as authorized by the Public Funds Investment Act, and Acts amendatory thereto. Paragraph 11 supersedes paragraphs 1-10 and controls in the event of conflict.

Except as provided herein, investments may be made only in banks, savings banks, savings and loan associations, or credit unions that are insured by the Federal Deposit Insurance Corporation or other approved share insurer. ⁸

Selection of Depositories, Investment Managers, Dealers, and Brokers ⁹

The Chief Investment Officer shall establish a list of authorized depositories, investment managers, dealers and brokers based upon the creditworthiness, reputation, minimum capital requirements, qualifications under State law, as well as a long history of dealing with public fund entities. The Board will review and approve the list at least annually.

In order to be an authorized depository, each institution must submit copies of the last ~~two~~² sworn statements of resources and liabilities or reports of examination that the institution is required to furnish to the appropriate State or federal agency.¹⁰ Each institution designated as a depository shall, while acting as such depository, furnish the District with a copy of all statements of resources and

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⁸ 30 ILCS 235/2, amended by P.A. 100-752.

⁹ The policy must address these topics. (30 ILCS 235/2.5(a)(11).

¹⁰ 30 ILCS 235/6.

liabilities or all reports of examination that it is required to furnish to the appropriate State or federal agency. ¹¹

The above eligibility requirements of a bank to receive or hold public deposits do not apply to investments in an interest-bearing savings account, interest-bearing certificate of deposit, or interest-bearing time deposit if: (1) the District initiates the investment at or through a bank located in Illinois, and (2) the invested public funds are at all times fully insured by an agency or instrumentality of the federal government. ¹²

The District may consider a financial institution's record and current level of financial commitment to its local community when deciding whether to deposit funds in that financial institution. The District may consider factors including: ¹³

1. For financial institutions subject to the federal Community Reinvestment Act of 1977, the current and historical ratings that the financial institution has received, to the extent that those ratings are publicly available, under the federal Community Reinvestment Act of 1977;
2. Any changes in ownership, management, policies, or practices of the financial institution that may affect the level of the financial institution's commitment to its community;
3. The financial impact that the withdrawal or denial of District deposits might have on the financial institution;
4. The financial impact to the District as a result of withdrawing public funds or refusing to deposit additional public funds in the financial institution; and
5. Any additional burden on the District's resources that might result from ceasing to maintain deposits of public funds at the financial institution under consideration.

Collateral Requirements ¹⁴

All amounts deposited or invested with financial institutions in excess of any insurance limit shall be collateralized in accordance with the Public Funds Investment Act, 30 ILCS 235/. The Superintendent or designee shall keep the Board informed of collateral agreements.

Safekeeping and Custody Arrangements ¹⁵

The preferred method for safekeeping is to have securities registered in the District's name and held by a third-party custodian. Safekeeping practices should qualify for the Governmental Accounting Standards Board Statement No. 3, Deposits with Financial Institutions, Investments (including Repurchase Agreements), and Reverse Repurchase Agreements, Category I, the highest recognized safekeeping procedures.

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¹¹ Id.

¹² 30 ILCS 235/6.5.

¹³ This paragraph is optional, but is authorized by 30 ILCS 235/8.

¹⁴ Collateral requirements are permissive; if used, guidelines regarding their use must be included in the policy. (30 ILCS 235/2.5(a)(5). The requirements for collateral agreements are in 30 ILCS 235/6(d). The sample policy contains one guideline, that is, that the board be kept informed of collateral agreements. An optional guideline follows: “

In addition, the financial institution must provide the Board with a copy of its board of directors' meeting minutes evidencing that the board of directors approved the collateral agreement.”

¹⁵ The policy must address safekeeping and custody arrangements. (30 ILCS 235/2.5(a)(5). Registration requirements are in 30 ILCS 235/3.

Controls and Report 16

The Chief Investment Officer shall establish a system of internal controls and written operational procedures to prevent losses arising from fraud, employee error, misrepresentation by third parties, or imprudent employee action.

The Chief Investment Officer shall provide a quarterly investment report to the Board. The report will: (1) assess whether the investment portfolio is meeting the District's investment objectives, (2) identify each security by class or type, book value, income earned, and market value, (3) identify those institutions providing investment services to the District, and (4) include any other relevant information. The investment portfolio's performance shall be measured by appropriate and creditable industry standards for the investment type. ¹⁷

The Board will determine, after receiving the Superintendent's recommendation, which fund is in most need of interest income and the Superintendent shall execute a transfer. This provision does not apply when the use of interest earned on a particular fund is restricted. ¹⁸

Ethics and Conflicts of Interest 19

The Board and District officials will avoid any investment transaction or practice that in appearance or fact might impair public confidence. Board members are bound by the Board policy 2:100, *Board Member Conflict of Interest*. No District employee having influence on the District's investment decisions shall:

1. Have any interest, directly or indirectly, in any investments in which the District is authorized to invest,
2. Have any interest, directly or indirectly, in the sellers, sponsors, or managers of those investments, or
3. Receive, in any manner, compensation of any kind from any investments in that the agency is authorized to invest.

LEGAL REF.: 30 ILCS 235/
105 ILCS 5/8-7, 5/10-22.44, 5/17-1, and 5/17-11.

CROSS REF.: 2:100 (Board Member Conflict of Interest), 4:10 (Fiscal and Business Management), 4:80 (Accounting and Audits)

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¹⁶ The policy must provide for internal controls, periodic review, and at least quarterly written investment reports. (30 ILCS 235/2.5(a)(6), (9), and (10). The operational procedures to prevent losses are best addressed by each district in consultation with its auditor and legal counsel. See policy 4:80, *Accounting and Audits*; and 4:80-AP1, *Checklist for Internal Controls*; and 4:80-AP2, *Fraud, Waste, and Abuse Awareness Program*.

¹⁷ The policy must include performance measures. (30 ILCS 235/2.5(8).

¹⁸ 105 ILCS 5/10-22.44. "Chief Business Official" may replace "Superintendent." Interest income earned on any funds for IMRF, Tort Immunity Act, Fire Prevention, Safety and Environmental Energy, and Capital Improvement Act are restricted to the respective fund. *Id.*

¹⁹ The policy must address these topics. (30 ILCS 235/2.5(a)(12). The conflict of interest prohibition is in 30 ILCS 235/2.

Operational Services

Insurance Management 1

The Superintendent shall recommend and maintain all insurance programs that provide the broadest and most complete coverage available at the most economical cost, consistent with sound insurance principles.

The insurance program shall include each of the following: 2

1. Liability coverage to insure against any loss or liability of the School District and the listed individuals against civil rights damage claims and suits, constitutional rights damage claims and suits, and death and bodily injury and property damage claims and suits, including defense costs, when damages are sought for negligent or wrongful acts allegedly committed in the scope of employment or under the Board's direction or related to any mentoring services provided to the District's certified staff members; School Board members; employees; volunteer personnel authorized by 105 ILCS 5/10-22.34, 5/10-22.34a, and 5/10-22.34b; mentors of certified staff members authorized in 105 ILCS 5/21A-5 et seq. (new teacher), 105 ILCS 5/2-3.53a (new principal), and 2-3.53b (new superintendents); and student teachers. 3
2. Catastrophic accident insurance at the mandated benefit level for student athletes in grades 9 through 12 who sustain an accidental injury while participating in school-sponsored or school-supervised interscholastic athletic events sanctioned by the Illinois Ill. High School Association that results in medical expenses in excess of \$50,000. 4

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¹ State law controls this policy's content. The Health Insurance Portability and Accountability Act (HIPAA) guarantees the continuity of health insurance benefits for individuals changing employment. It also contains provisions promoting the: (1) standardization and efficiency for the electronic submission, processing, and payment of health care claims, and (2) security and privacy requirements for health information. ~~See 45 C.F.R. §§160 and 164.~~ School officials are urged to consult with their insurance providers and legal counsel to devise a compliance plan.

² Other types of district-purchased insurance should also be listed here, such as, insurance programs for employees and their dependents (authorized by 105 ILCS 5/10-22.3a). Note that: (1) any employee or retired employee insurance program is a mandatory subject of bargaining, and (2) State law provides persons entering into a civil union with the obligations, responsibilities, protections, and benefits afforded or recognized by Ill. law to spouses (750 ILCS 75/).

³ A board's duty to indemnify and protect specific individuals is found in 105 ILCS 5/10-20.20. A board's duty to insure against loss or liability is found in 105 ILCS 5/10-22.3. The lists of individuals to be protected are identical in both statutes except that *mentors* was added in 2009 to only the indemnification statute. As the best method for providing indemnification is through insurance, this policy includes mentors in its list of individuals covered by the district's liability insurance.

⁴ 105 ILCS 5/22-15, ~~amended by P.A. 98-166,~~ requires each school district having grades 9 through 12 to maintain catastrophic insurance coverage for student athletes participating in interscholastic athletic events sanctioned by IHSA-the Ill. High School Association (IHSA). The minimum level of coverage must provide aggregate benefit levels of \$3 million or 5 years, whichever comes first, for injuries with total medical expenses exceeding \$50,000. The law authorizes IHSA to promulgate a plan of coverage under a group policy that provides the necessary coverage. If a district opts out of IHSA's group policy, it must offer alternative coverage and submit to IHSA a certificate from the provider stating that the insurance complies with the plan of coverage approved by IHSA.

3. Comprehensive property insurance covering a broad range of causes of loss involving building and personal property. The coverage amount shall normally be for the replacement cost or the insurable value.
4. Workers' Compensation to protect individual employees against financial loss in case of a work-related injury, certain types of disease, or death incurred in an employee-related situation.

Student Insurance 5

The Board shall annually designate a company to offer student accident insurance coverage. The Board does not endorse the plan nor recommend that parents/guardians secure the coverage, and any contract is between the parent(s)/guardian(s) and the company.

LEGAL REF.: Consolidated Omnibus Budget Reconciliation Act, [Pub. L. 99-272, § 1001](#),
 100 Stat. 222, 4980B(f) of the I.R.S. Code, 42 U.S.C. § 300bb-1 *et seq.*
 105 ILCS 5/10-20.20, 5/10-22.3, 5/10-22.3a, 5/10-22.3b, 5/10-22.3f, 5/10-22.34,
 5/10-22.34a, 5/10-22.34b, and 5/22-15.
 215 ILCS 5/, [Ill. Insurance Code](#).
 750 ILCS 75/, [Ill. Religious Freedom Protection and Civil Union Act](#).
 820 ILCS 305/, [Workers' Compensation Act](#).

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Delete item #2 if the district: (1) does not maintain grades 9-12, or (2) qualifies for an exemption from the mandatory coverage (contact IHSA or the board attorney for information about claiming an exemption). A district maintaining grades K-8 may, but is not required to, provide accident and/or health insurance on a group or individual basis for students injured while participating in any school-sponsored athletic activity. If so, the following may be *added* to item #2 (for unit districts) or may *replace* item #2 (for elementary districts): "Accident and/or health insurance on a group or individual basis for students in grades kindergarten through 8 participating in any school-sponsored athletic activity." If item #2 is deleted and the option is not used, the board should omit the citation to catastrophic accident insurance ([105 ILCS 5/22-15](#)) in the legal references.

⁵ Optional. Until May 2014, this paragraph was included in sample policy 4:170, *Safety*.

Operational Services

Transportation 1

The District shall provide free transportation for any student in the District who resides: (1) at a distance of one and one-half miles or more from his or her assigned school, unless the School Board has certified to the Illinois State Board of Education that adequate public transportation is available,² or (2) if adequate public transportation is not available, within one and one-half miles from his or her assigned school where walking to or from school or to or from a pick-up point or bus stop would constitute a serious safety hazard due to either (a) vehicular traffic or rail crossing, and adequate public transportation is not available; or (b) a course or pattern of criminal activity, as defined in the Ill. Streetgang Terrorism Omnibus Prevention Act, 740 ILCS 147/.³ A student's parent(s)/guardian(s) may

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¹ State law controls this policy's content. 105 ILCS 5/29-1 et seq. and 23 Ill.Admin.Code Part 120. **Important: The board of a district that does not provide transportation must amend this policy.** F/n 2 discusses when districts must provide free transportation. Please contact an IASB Policy Consultant for *gratis* help customizing this policy. You may also need to consult the board attorney.

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

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

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

² Only the following districts must provide free transportation as described in the sample policy: community consolidated districts, community unit districts, consolidated districts, consolidated high school districts, and combined school districts if the combined district includes any district that was previously required to provide transportation. 105 ILCS 5/29-3, amended by P.A. 100-1142, and 23 Ill.Admin.Code §1.510(a). Districts that are not required to provide free transportation may do so. Id. To qualify for State reimbursement, districts electing to provide transportation when they are not required to do so must afford the same service to all students in that same situation. 23 Ill.Admin.Code §1.510(b). Districts may provide transportation within one and one-half miles and may charge for such transportation. 105 ILCS 5/29-2.

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

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

³ 105 ILCS 5/29-3, amended by P.A. 100-1142 and 23 Ill.Admin.Code §1.510. The determination as to what constitutes a *serious safety hazard* regarding vehicular traffic or rail crossings is made by the board, in accordance with guidelines issued by the Ill. Dept. of Transportation, in consultation with the State Superintendent of Education. The Ill. Streetgang Terrorism Omnibus Prevention Act defines course or pattern of criminal activity as two or more gang-related criminal offenses committed in whole or in part within Illinois when: (1) one or more of the offenses was committed after 1-1-93, (2) both offenses were committed within five years of each other; and (3) at least one offense involved a felony or forcible felony under the Ill. Criminal Code of 1961 or 2012. 740 ILCS 147/10. It also includes criminal defacement of property that includes a streetgang sign or symbol. Id. The determination as to what constitutes a *serious safety hazard* due to a course or pattern of criminal activity under 105 ILCS 5/29-3 is made by the board, in accordance with guidelines determined by local law enforcement, in consultation with the State Superintendent of Education.

file a petition with the Board requesting transportation due to the existence of a serious safety hazard.⁴ Free transportation service and vehicle adaptation is provided for a special education student if included in the student's individualized educational program.⁵ Non-public school students shall be transported in accordance with State law.⁶ Homeless students shall be transported in accordance with Section 45/1-15 of the Education for Homeless Children Act.⁷ Foster care students shall be transported in accordance with Section 6312(c)(5)(B) of the Elementary and Secondary Education Act.⁸

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

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⁴ Required by 105 ILCS 5/29-3, amended by P.A. 100-1142. Another statute provides a process for *qualifying students* to seek reimbursement from ISBE for *qualified transportation expenses*. 105 ILCS 5/29-5.2; 23 Ill.Admin.Code §120.240. 23 Ill.Admin.Code §120.230 requires, among other things, that each attendance center designate a representative to assist parents/guardians with this process. This process does not need to be in board policy and is not covered herein.

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

⁶ 105 ILCS 5/29-3.2 and 5/29-4.

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

P.A. 100-332 amended the School Code and the Education for Homeless Children Act to permit school districts to use their State transportation funds to provide financial assistance to children that are defined as homeless or *at risk of becoming homeless*, provided certain criteria are satisfied. 105 ILCS 5/29-5; 105 ILCS 45/1-17. Financial assistance may include: (1) mortgage or rental assistance that will allow a child to remain permanently in his/her living situation or obtain a new living situation; and/or (2) assistance with unpaid bills, loans, or other financial debts that result in housing being inadequate. 105 ILCS 45/1-17(a). For further detail, see 6:140-AP, *Education of Homeless Children*.

⁸ Required if the district receives Title I funds. 20 U.S.C. §6312(c)(5)(B). The Elementary and Secondary Education Act (ESEA) requires the district to collaborate with the State or local child welfare agency to develop and implement clear written procedures governing how transportation to maintain children in foster care in the school of origin (when in their best interest) will be provided, arranged, and funded for the duration of their time in foster care. ISBE guidance on transportation procedures for students in foster care is available at: www.isbe.net/Pages/Foster-Care.aspx; www.isbe.net/Pages/Funding-and-Disbursements-Transportation-Programs.aspx. The U.S. Depts. of Education and Health and Human Services, in *Non-Regulatory Guidance: Ensuring Educational Stability for Children in Foster Care* (6-23-16) at: www2.ed.gov/policy/elsec/leg/essa/edhhsfostercarenonregulatorguide.pdf, opine that ESEA requirements apply to students who meet the definition of *foster care* set forth at 45 C.F.R. §1355.20(a):

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

ESEA foster care transportation requirements also apply to students *awaiting* foster care placement.

105 ILCS 5/10-20.58,59 added by P.A. 99-781, permits school boards to appoint at least one employee to act as a liaison to facilitate the enrollment and transfer of records of students in the legal custody of the Ill. Department of Children and Family Services (DCFS) when enrolling in or changing schools. Liaison responsibilities may include, among other things, working with DCFS to help students maintain their school placement, if appropriate.

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

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

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

Every vehicle regularly used for the transportation of students must pass safety inspections in accordance with State law and Illinois Department of Transportation regulations.¹² The strobe light on a school bus may be illuminated only when the bus is actually being used as a school bus and (1) is stopping or stopped for loading or discharging students on a highway outside an urban area, or (2) is bearing one or more students.¹³ The Superintendent shall implement procedures in accordance with State law for accepting comment calls about school bus driving. ¹⁴

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

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

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

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

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

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

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

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

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

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

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

Pre-Trip and Post-Trip Vehicle Inspection 16

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

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

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

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

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

- LEGAL REF.: ~~20 U.S.C. §6312(c)(5)(B), Elementary and Secondary Education Act, 20 U.S.C. §6312(c)(5)(B),~~
~~42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.,~~
105 ILCS 5/10-22.22 and 5/29-1 et seq.
105 ILCS 45/1-15 and /1-17.
625 ILCS 5/1-148.3a-5, 5/1-182, 5/11-1414.1, ~~5/12-813,~~ 5/12-813.1, 5/12-815,
5/12-816, 5/12-821, and 5/13-109.
23 Ill.Admin.Code §§1.510 and 226.750; Part 120.
92 Ill.Admin.Code ~~§Part~~ 440-3.
- CROSS REF.: 4:170 (Safety), 5:100 (Staff Development Program), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:280 (Educational Support Personnel - Duties and Qualifications), 6:140 (Education of Homeless Children), 6:170 (Title I Programs), 7:220 (Bus Conduct)
- ADMIN. PROC.: 4:110-AP2 (Bus Driver Communication Devices; Pre-Trip and Post-Trip Inspection; Bus Driving Comments), 4:110-AP3 (School Bus Safety Rules), 4:110-E (Emergency Medical Information for Students Having Special Needs or Medical Conditions Who Ride School Buses), 6:140-AP (Education of Homeless Children)

Operational Services

Facility Management and Building Programs ¹

The Superintendent shall manage the District's facilities and grounds as well as facility construction and building programs in accordance with the law, the standards set forth in this policy, and other applicable School Board policies. The Superintendent or designee shall facilitate: (1) inspections of schools by the Regional Superintendent and State Fire Marshal or designee, ~~and~~ (2) review of plans and specifications for future construction or alterations of a school if requested by the relevant municipality, county (if applicable), or fire protection district, ~~and~~ (3) compliance with the 10-year safety survey process required by the School Code. ²

Standards for Managing Buildings and Grounds

All District buildings and grounds shall be adequately maintained in order to provide an appropriate, safe, and energy efficient physical environment for learning and teaching. The Superintendent or designee shall provide the Board with periodic reports on maintenance data and projected maintenance needs that include cost analysis. Prior Board approval is needed for all renovations or permanent alterations to buildings or grounds when the total cost will exceed \$12,500, including the cost

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

The federal rules implementing the Americans with Disabilities Act of 1990 (ADA, 42 U.S.C. §12101 et seq.) prohibit discrimination on the basis of disability in services and facilities. 28 C.F.R. Parts 35 and 36. The 2010 ADA Standards for Accessible Design (28 C.F.R. Part 36, Appendix) are available from a link on the ADA home page, www.ada.gov/. Consult the board attorney about how these standards apply to alterations and new construction.

The Prevailing Wage Act is generally applicable to all construction projects. 820 ILCS 130/, amended by P.A. 100-1177, eff. 6-1-19. It requires, among other things, that: (1) all workers on a public works project be paid no less than the prevailing hourly rate (820 ILCS 130/1); (2) the district specify in all public works contracts that the prevailing rate must be paid (820 ILCS 130/4(~~ea-1~~), amended by P.A. 100-1177, eff. 6-1-19); and (3) until such time as the Ill. Dept. of Labor activates an electronic database for certified payrolls, all contractors must submit certain employment records to the district, and the district must keep these records as required by law (820 ILCS 130/5, amended by P.A. 100-1177, eff. 6-1-19).

105 ILCS 5/10-20.60 (~~final citation pending~~), 63, added by P.A. 100-163, ~~eff. 1-1-18~~, requires school districts to make feminine 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 school buildings serving students in grades 6 through 12. **Note:** The statute does not delineate between types of bathrooms (student, staff, girls, boys, unisex, etc.). Consult with the board attorney about implementing this law.

² 105 ILCS 5/2-3.12, 105 ILCS 5/3-14.20, and 5/3-14.21.

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

105 ILCS 5/2-3.12 and 23 Ill.Admin.Code Part 180 contain the school building code and Health/Life and Safety Code for Public Schools (HLS Code), respectively. The board must hire a licensed architect or engineer to conduct a decennial inspection of its school buildings and produce a ten-year safety survey report, which is submitted to the Regional Superintendent (ROE) or Intermediate Service Center (ISC) and the State Superintendent for approval. The board must also report to the ROE or ISC annually on its completion of the report recommendations to comply with the HLS Code. See the Health Life Safety Handbook at www.isbc.net/Pages/Health-and-Life-Safety.aspx for more information about the safety survey process.

equivalent of staff time.³ This policy is not intended to discourage efforts to improve the appearance of buildings or grounds that are consistent with the designated use of those buildings and grounds.

Standards for Green Cleaning ⁴

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

Standards for Facility Construction and Building Programs ⁵

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

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

⁴ Required by the Green Cleaning School Act (105 ILCS 140/) and Green Cleaning for Elementary and Secondary Schools (23 Ill.Admin.Code Part 2800). The Ill. Green Government Coordinating Council established *Guidelines and Specifications* which state: "While not mandatory, schools should implement the practices set forth in the Recommendations section of these guidelines where applicable and appropriate." ~~See *Guidelines and Specifications* at: www.illinois.gov/gov/green/Documents/Illinois%20Green%20Cleaning%20Guidelines%20and%20Specifications.pdf. See *Guidelines and Specifications* at: <https://www2.illinois.gov/sites/green/Pages/GreenCleaning.aspx>.~~

⁵ The inclusion and identification of the facility goals listed in the second paragraph are at the board's discretion.

~~105 ILCS 5/2-3.12 and 23 Ill.Admin.Code Part 180 contain the School building code and Health/Life and Safety Code for Public Schools, respectively. Among their mandates are the decennial safety survey report. 105 ILCS 5/2-3.12(b); 23 Ill.Admin.Code §180.310. After 1-1-15, all "new school building construction" must include a storm shelter that meets or exceeds the ICC/NSSA Standard for the Design and Construction of Storm Shelters (ICC-500) published jointly by the International Code Council and the National Storm Shelter Association. 105 ILCS 5/2-3.12(e-5); 23 Ill.Admin.Code §180.60(b)(3). Any facility project for which the design contract is executed after 7-1-16 must meet standards of the 2015 International Building Code and its subcodes. 23 Ill.Admin.Code 180.60(a).~~

The Ill. Environmental Barriers Act (IEBA) (410 ILCS 25/) and the Ill. Accessibility Code (IAC) (71 Ill.Admin.Code Part 400) ensure that "all applicable buildings and facilities the built environment in the State of Illinois, is ~~so~~-designed, constructed, ~~and/or altered to assure the safety and welfare of all members of society and~~ altered to be readily-accessible to, and usable by, ~~environmentally-limited persons.~~ all, including individuals with disabilities." 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."~~ Note: Press boxes constructed on school property do not have to comply with the Accessibility Code IAC if the press boxes are in bleachers that have points of entry at only one level, and the aggregate area of the press box is no more than 500 square feet. 105 ILCS 5/10-20.51; 23 Ill.Admin.Code 180.60(b)(4).

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

A district may levy a tax for "fire prevention, safety, energy conservation, disabled accessibility, school security, and specified repair purposes." 105 ILCS 5/17-2.11. An expedited process may be available in emergency situations. Id. A board may, subject to certain notice requirements, transfer surplus life safety taxes and interest earnings on them to the Operations and Maintenance Fund for building repair work until June 30, ~~2019~~ 2020. Id., amended by P.A. ~~99-713~~ 100-465.

The Green Buildings Act requires all new State-funded building construction and major renovation projects to meet specified environmental requirements. 20 ILCS 3130/. Waivers may be granted by the Capital Development Board in certain situations. 20 ILCS 3130/15(e). For environmental impact laws, see policy 4:160, *Environmental Quality of Buildings and Grounds*.

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

1. Integrate facilities planning with other aspects of planning and goal-setting.
2. Base educational specifications for school buildings on identifiable student needs.
3. Design buildings for sufficient flexibility to permit new or modified programs.
4. Design buildings for maximum potential for community use.
5. Meet or exceed all safety requirements.
6. Meet requirements on the accessibility of school facilities to disabled persons as specified in State and federal law.
7. Provide for low maintenance costs, energy efficiency, and minimal environmental impact.

Naming Buildings and Facilities ⁶

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

- LEGAL REF.: 42 U.S.C. §12101 et seq., Americans with Disabilities Act of 1990, implemented by 28 C.F.R. Parts 35 and 36.
20 ILCS 3130/, Green Buildings Act.
105 ILCS 5/2-3.12, 5/10-20.49, 5/10-22.36, 5/10-20.~~63~~⁶⁰ (~~P.A. 100-163, final citation pending~~), and 5/17-2.11.
105 ILCS 140/, Green Cleaning Schools Act.
105 ILCS 230/, School Construction Law.
410 ILCS 25/, Environmental Barriers Act.
820 ILCS 130/, Prevailing Wage Act.
23 Ill.Admin.Code Part 151, School Construction Program; Part 180, Health/Life Safety Code for Public Schools; and Part 2800, Green Cleaning for Elementary and Secondary Schools.
71 Ill.Admin.Code Part 400, Ill. Accessibility Code.
- CROSS REF.: 2:150 (Committees), 2:170 (Procurement of Architectural, Engineering, and Land Surveying Services), 4:60 (Purchases and Contracts), 8:70 (Accommodating Individuals with Disabilities)

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

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

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

Operational Services

Environmental Quality of Buildings and Grounds ¹

The Superintendent shall take all reasonable measures to protect: (1) the safety of District personnel, students, and visitors on District premises from risks associated with hazardous materials, and (2) the environmental quality of the District's buildings and grounds.² Before pesticides are used on District premises, the Superintendent or designee shall notify employees and parents/guardians of students as

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

1. Have a procedure to comply with the Structural Pest Control Act (~~225 ILCS 235/~~) and the Lawn Care Products Application and Notice Act (~~405 ILCS 5/10-20.4.65/~~). See 4:160-AP, ~~Administrative Procedure—Environmental Quality of Buildings and Grounds~~.
2. Designate a staff person to be responsible for district compliance with the safety acts listed in #1 above. This policy designates the superintendent or designee.

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

1. Several federal laws regulate asbestos as a hazardous substance, the most significant for schools being the Asbestos Hazard Emergency Response Act of 1986. 15 U.S.C. § 2641 et seq. The Asbestos Abatement Act, 105 ILCS 105/, requires schools to perform a variety of functions regarding asbestos.
2. The Indoor Air Quality Act, 410 ILCS 87/. The Ill. Dept. of Public Health Guidelines for Indoor Air Quality are advisory, i.e., not enforceable.
www.idph.state.il.us/envhealth/factsheets/indoorairqualityguide_fs.htm
3. The Smoke-Free Illinois Act, 410 ILCS 82/, bans tobacco smoking inside schools.
4. The Structural Pest Control Act, 225 ILCS 235/ requires the Ill. Dept. of Public Health to establish guidelines for an integrated pest management program for schools. See: www.idph.state.il.us/envhealth/ipm/index.htm, or www.idph.state.il.us/envhealth/entpestfshts.htm.
5. Notices to employees and parents/guardians before pesticide applications are required by the Structural Pest Control Act (~~225 ILCS 235/10.3/~~). The Lawn Care Products Application and Notice Act requires similar notices but only to parents/guardians (~~415 ILCS 65/3/~~).
6. The Green Cleaning School Act, 105 ILCS 140/, and Green Cleaning for Elementary and Secondary Schools, 23 Ill.Admin.Code Part 2800, contain guidelines for green cleaning. See policy 4:150, Facility Management and Building Program Programs.
7. The Green Buildings Act requires all new State-funded building construction and major renovation projects to meet specified environmental requirements (~~20 ILCS 3130/~~). Waivers may be granted by the Capital Development Board in certain situations (~~Id.~~).
8. The Ill. legislature recommended that each occupied school building be tested every five years for radon and provided a process for the screening in 105 ILCS 5/10-20.48.

Employers must provide all employees with an education and training program with respect to all toxic substances to which an employee is routinely exposed while working (~~820 ILCS 255/16/~~; 23 Ill.Admin.Code §1.330). However, this section and most of the Toxic Substances Disclosure to Employees Act (820 ILCS 255/) are **inoperative**; its implementing rules (56 Ill.Admin.Code Part 205) were repealed. Instead, the Ill. Dept. of Labor enforces the federal Occupational Safety and Health Administration Hazard Communication Standards at 29 C.F.R. §1910.1200 (~~820 ILCS 255/1.5/~~). Thus, school districts must follow the federal disclosure and training requirements.

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

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

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

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

required by the Structural Pest Control Act, 225 ILCS 235/, and the Lawn Care Products Application and Notice Act, 415 ILCS 65/. 3

LEGAL REF.: 29 C.F.R. §1910.1030, Occupational Exposure to Bloodborne Pathogens, as adopted by the Illinois Department of Labor, 56 Ill.Admin.Code §350.~~300(e)-700(b).~~
29 C.F.R. §1910.1200, Occupational Safety and Health Administration Hazard Communication Standards, as adopted by 820 ILCS 255/1.5, Toxic Substances Disclosure to Employees Act.
20 ILCS 3130/, Green Buildings Act.
105 ILCS 5/10-20.17a; 5/10-20.48; ~~135/; and,~~
105 ILCS 135/, Toxic Art Supplies in Schools Act.
105 ILCS 140/, Green Cleaning School Act.
225 ILCS 235/, Structural Pest Control Act.
415 ILCS 65/, Lawn Care Products Application and Notice Act.
820 ILCS 255/, Toxic Substances Disclosure to Employees Act. (*inoperative*)
23 Ill.Admin.Code §1.330, ~~Toxic Materials Training.~~

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

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

³ Different requirements pertain to the notices in the Structural Pest Control Act (225 ILCS 235/10.3) and the Lawn Care Products Application and Notice Act (415 ILCS 65/3(~~f~~-)). Both require notice to parents/guardians. Notice to employees is only required by the Structural Pest Control Act. For the sake of simplicity, the sample policy requires notice to employees before pesticides are used. Notice at least 4four business days before application is required by Lawn Care Products Application and Notice Act; notice at least ~~2two~~ business days is required by the Structural Pest Control Act.

If a registry is maintained, replace the ~~following alternative is used, omit the policy's last sentence with this alternative:~~

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

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

Operational Services

Targeted School Violence Prevention Program ¹

Threats and acts of targeted school violence harm the District's environment and school community, diminishing students' ability to learn and a school's ability to educate. Providing students and staff with access to a safe and secure District environment is an important Board goal. While it is not possible for the District to completely eliminate threats in its environment, a Targeted School Violence Prevention Program (Program) using the collective efforts of local school officials, staff, students, families, and the community helps the District reduce these risks to its environment.

The Superintendent or designee shall develop and implement the Program.² The Program oversees the maintenance of a District environment that is conducive to learning and working by identifying, assessing, classifying, responding to, and managing threats and acts of targeted school violence. The Program shall be part of the District's Comprehensive Safety and Security Plan, required by Board policy 4:170, *Safety*, and shall:

1. Establish a District-level School Violence Prevention Team to: (a) develop a District-level Targeted School Violence Prevention Plan, and (b) oversee the District's Building-level Threat Assessment Team(s). ³

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¹ This policy is optional. It contains items from *Threat Assessment in Virginia Public Schools: Model Policies, Procedures, and Guidelines*, Second Edition (August 2016), Virginia Center for School and Campus Safety, Virginia Dept. of Criminal Justice Services, at: www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/publications/law-enforcement/threat-assessment-model-policies-procedures-and-guidelinespdf.pdf. *Threat Assessment in Virginia Public Schools* is based upon a synthesis of established research and recognized standards of practice regarding threat assessment and management in school and workplace settings, including *Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates*, a 2002 publication of the U.S. Secret Service and the U.S. Dept. of Education, at: www.secretservice.gov/data/protection/ntac/ssi_guide.pdf. The July 2018 update of this document was renamed *Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence*, published by the U.S. Secret Service, at: www.dhs.gov/sites/default/files/publications/18_0711_USSS_NTAC-Enhancing-School-Safety-Guide.pdf.

Boards are authorized to adopt a policy on targeted school violence prevention programs even though State and federal law provide little guidance. State law grants boards broad authority to formulate, adopt, and modify school board policies, at the board's sole discretion, subject only to mandatory collective bargaining agreements and State and federal law. 105 ILCS 5/10-20.5 and 115 ILCS 5/1 et seq. See policies 2:20, *Powers and Duties of the School Board; Indemnification*, and 2:240, *Board Policy Development*.

Adopting a policy that addresses targeted school violence prevention provides (a) a way for boards to monitor that it is being done, and (b) an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Before adoption of this policy, each board may want to have a conversation with the superintendent to determine whether local conditions and resources and current practices will support full implementation of this policy and its accompanying administrative procedures. Its goals and program will be most effective when they reflect local conditions and circumstances.

² Ensuring school safety begins with establishing a comprehensive targeted school violence prevention program, which "includes forming a multidisciplinary threat assessment team, establishing central reporting mechanisms, identifying behaviors of concern, defining the threshold for law enforcement intervention, identifying risk management strategies, promoting safe school climates, and providing training to stakeholders." *Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence*, published by the U.S. Secret Service, at: www.dhs.gov/sites/default/files/publications/18_0711_USSS_NTAC-Enhancing-School-Safety-Guide.pdf.

³ The establishment of threat assessment teams in K-12 public schools is Recommendation #1 of the *Recommendations of the Illinois Terrorism Task Force School Safety Working Group*, presented to the Office of the Governor on 4-5-18, at: www.iasb.com/safety/. Illinois higher education institutions have required threat assessment teams since the passage of the Campus Security Enhancement Act of 2008 (110 ILCS 12/20(b)(2), eff. 1-1-09) in response to the shootings that took place at Virginia Polytechnic Institute and State University on 4-16-07 and Northern Illinois University on 2-14-08.

2. Establish Building-level Threat Assessment Team(s) to assess and intervene with individuals whose behavior may pose a threat to safety. This team may serve one or more schools.
3. Comply with State and federal law and align with Board policies.

The Local Governmental and Governmental Employees Tort Immunity Act protects the District from liability. The Program does not: (1) replace the care of a physician licensed to practice medicine in all of its branches or a licensed medical practitioner or professional trained in violence prevention, assessments and counseling services, (2) extend beyond available resources within the District, (3) extend beyond the school day and/or school-sponsored events, or (4) guarantee or ensure the safety of students, District staff, or visitors. 4

LEGAL REF.: 105 ILCS 5/10-20.14, 5/10-21.7, 5/10-27.1A, 5/10-27.1B, 5/24-24, and 5/27-23.7.
105 ILCS 128/, School Safety Drill Act.
745 ILCS 10/, Local Governmental and Governmental Employees Tort Immunity Act.
29 Ill.Admin.Code Part 1500.

CROSS REF.: 2:240 (Board Policy Development), 4:170 (Safety), 5:90 (Abused and Neglected Child Reporting), 5:100 (Staff Development Program), 5:230 (Maintaining Student Discipline), 6:65 (Student Social and Emotional Development), 7:140 (Search and Seizure), 6:270 (Guidance and Counseling Program), 7:150 (Agency and Police Interviews), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:250 (Student Support Services), 7:290 (Suicide and Depression Awareness and Prevention), 7:340 (Student Records), 8:30 (Visitors to and Conduct on School Property), 8:100 (Relations with Other Organizations and Agencies)

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4 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 (TIA) likely protects districts from liability for failure to properly identify and/or respond to a student's behavior that results in injury or suicide. See 745 ILCS 10/3-108 and Grant v. Board of Trustees of Valley View School Dist. No. 365-U, 286 Ill.App.3d 642 (3rd Dist. 1997). 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 and ensuring other policies are followed.

In addition to the TIA, school officials and districts may also be entitled to qualified immunity in civil rights lawsuits that seek to hold them liable for a suicide. For further discussion, see f/n 13 in policy 7:290, *Suicide and Depression Awareness and Prevention*.

General Personnel

Equal Employment Opportunity and Minority Recruitment 1

The School District shall provide equal employment opportunities² to all persons regardless of their race; color; creed; religion;³ national origin; sex;⁴ sexual orientation;⁵ age;⁶ ancestry; marital

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

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

The Equal Employment Opportunities Act (EEOA, ~~a/k/a~~ Title VII of the Civil Rights Act of 1964) prohibits discrimination because of an individual's race, color, religion, sex, or national origin. 42 U.S.C. §2000e *et seq.*, amended by The Lilly Ledbetter Fair Pay Act of 2009 (LLFPA), Pub.L. 111-2.

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

The Ill. Equal Pay Act of 2003 (EPA) offers additional protection by prohibiting the payment of wages to one sex less than the opposite sex or to an African-American less than a non-African-American for the same or substantially similar work. 820 ILCS 112/, amended by P.A. 100-1140. The Ill. Dept. of Labor (IDOL) enforces the EPA.

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

³ ~~Section 775 ILCS 5/2-102~~ of the IHRA, amended by P.A. 100-100, contains a *new religious discrimination* subsection. It expressly prohibits employers from requiring a person to violate a sincerely held religious belief to obtain or retain employment unless, after engaging in a bona fide effort, the employer demonstrates that it is unable to reasonably accommodate the employee's or prospective employee's sincerely held religious belief, practice, or observance without undue hardship on the conduct of the employer's business. Religious beliefs include, but are not limited to: the wearing of any attire, clothing, or facial hair in accordance with the requirements of his/her religion. 775 ILCS 5/2-102(E-5). Employers may, however, enact a dress code or grooming policy that restricts attire, clothing, or facial hair to maintain workplace safety or food sanitation. *Id.*

In addition to the IHRA and the federal EEOA (discussed in f/n 2), see 775 ILCS 35/, Religious Freedom Restoration Act.

⁴ In addition to the IHRA and the federal EEOA (discussed in f/n 2), see Title IX of the Education Amendments of 1972. 20 U.S.C. §1681 *et seq.* The federal Equal Pay Act prohibits an employer from paying persons of one ~~gender~~ sex less than the wage paid to persons of the opposite ~~gender~~ sex for equal work. 29 U.S.C. §206(d). ~~The State Equal Pay Act of 2003 offers greater protection by prohibiting the payment of wages to one gender less than another gender for the same or substantially similar work. 820 ILCS 112/. See f/n 2 above for more information on State equal pay protections, including on the basis of sex.~~ The LLFPA defines *date of underpayment* as each time wages are underpaid. Employees have one year from the time they become aware of the underpayment to file a complaint with the ~~Ill. Dept. of Labor (IDOL)~~ IDOL. 820 ILCS 112/15(b).

⁵ ~~IHRA~~ Sexual orientation means actual or perceived heterosexuality, homosexuality, bisexuality, or gender-related identity; it does not include a physical or sexual attraction to a minor by an adult. 775 ILCS 5/1-103(O-1).

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

status;⁷ arrest record;⁸ military status; order of protection status;⁹ unfavorable military discharge;¹⁰ citizenship status provided the individual is authorized to work in the United States;¹¹ use of lawful products while not at work;¹² being a victim of domestic or sexual violence;¹³ genetic information;¹⁴ physical or mental handicap or disability, if otherwise able to perform the essential functions of the job with reasonable accommodation;¹⁵ pregnancy, childbirth, or related medical conditions;¹⁶ credit

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⁷ 105 ILCS 5/10-22.4 and 775 ILCS 5/1-103(Q). The term *marital status* means an individual's legal status of being married, single, separated, divorced, or widowed. 775 ILCS 5/1-103(J). This statutory definition does not encompass the identity of one's spouse. Thus, school districts may adopt no-spouse policies. *Boaden v. Dept. of Law Enforcement*, 171 Ill.2d 230 (Ill. 1996).

⁸ Districts may not make employment decisions on the basis of arrest history, but may use job-disqualifying criminal convictions. 775 ILCS 5/2-103. The Job Opportunities for Qualified Applicants Act prohibits an employer from asking about a criminal record until the employer determines that the applicant is qualified for the position; however, this does not apply when employers are required to exclude applicants with certain criminal convictions from employment. School employers should limit their requests for criminal convictions to *job-disqualifying* convictions. 820 ILCS 75/15. See also the EEOC's guidance, *Consideration of Arrest and Conviction Records in Employment Decisions*, at: www.eeoc.gov/laws/guidance/arrest_conviction.cfm.

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

¹⁰ *Military status* means a person's status on active duty or in status as a veteran in the U.S. Armed Forces, veteran of any reserve component of U.S. Armed ~~F~~orces, or current member or veteran of the Ill.~~inois~~ Army National Guard or Ill.~~inois~~ Air National Guard. 775 ILCS 5/1-103(J-1). *Unfavorable military discharge* does *not* include those characterized as RE-4 or *dishonorable*. 775 ILCS 5/1-103(P). The Uniformed Services Employment and Reemployment Rights Act of 1994 prohibits employers from discriminating or retaliating against any person for reasons related to past, present, or future service in a *uniformed service*. 38 U.S.C. §§4301 et seq.

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

¹² The Right to Privacy in the Workplace Act prohibits discrimination based on use of lawful products, e.g., alcohol and tobacco, off premises during non-working hours. 820 ILCS 55/5.

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

¹⁴ Illinois' Genetic Information Protection Act (GIPA) (410 ILCS 513/25) and Title II of Genetic Information Nondiscrimination Act (GINA) (42 U.S.C. §2000ff et seq.). Both laws protect job applicants and current and former employees from discrimination based on their genetic information. Note that GIPA provides greater protections to Illinois employees than Title II of GINA. GIPA, amended by P.A. 100-396, prohibits employers from penalizing employees who do not disclose genetic information or do not choose to participate in a program requiring disclosure of the employee's genetic information. See f/n 12 in 2:260, *Uniform Grievance Procedure* for the definition of genetic information and a detailed description of both statutes, including of Title I of GINA affecting the use of genetic information in health insurance. In 2011, the EEOC published an informative guidance letter, *ADA & GINA: Incentives for Workplace Wellness Program* at: www.eeoc.gov/eeoc/foia/letters/2011/ada_gina_incentives.html. Consult the board attorney for guidance regarding specific application of these laws and how they integrate with other related laws, e.g., the Family Medical Leave Act, the Americans with Disabilities Act, and other State laws governing time off for sickness and workers' compensation.

¹⁵ Americans with Disabilities Act of 1990 (ADA) (42 U.S.C. §§12101 et seq.), amended by the Americans with Disabilities Act Amendments Act of 2008 (ADAAA) (Pub. L. 110-325) and modified by the LLFPA; Rehabilitation Act of 1973 (29 U.S.C. §791 et seq.).

¹⁶ 775 ILCS 5/2-102(I). Employers must provide reasonable accommodations to employees with conditions related to pregnancy, childbirth, or related conditions. 775 ILCS 5/2-102(J). Employers are required to post a notice summarizing the right to be free from unlawful discrimination and the right to certain reasonable accommodations. 775 ILCS 5/2-102(K). The IDOL is required to prepare such a notice, retrievable from its website, which employers may use.

history, unless a satisfactory credit history is an established bona fide occupational requirement of a particular position;¹⁷ or other legally protected categories.^{18 19 20 21} No one will be penalized solely for his or her status as a registered qualifying patient or a registered designated caregiver for purposes of the Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/. ²²

Persons who believe they have not received equal employment opportunities should report their claims to the Nondiscrimination Coordinator and/or a Complaint Manager for the Uniform Grievance Procedure. These individuals are listed below. No employee or applicant will be discriminated or retaliated against because he or she: (1) requested, attempted to request, used, or attempted to use a reasonable accommodation as allowed by the Illinois Human Rights Act, or (2) initiated a complaint, was a witness, supplied information, or otherwise participated in an investigation or proceeding involving an alleged violation of this policy or State or federal laws, rules or regulations, provided the

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Federal law also prohibits employers from discriminating against employees and applicants on the basis of pregnancy, childbirth, or related medical conditions. 42 U.S.C. §2000e(k). Pregnant workers with pregnancy-related impairments may have disabilities for which they may be entitled to reasonable accommodation under the ADA. Guidance from the EEOC (7-14-14) is available at: www.eeoc.gov/laws/guidance/pregnancy_qa.cfm.

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

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

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

¹⁹ ~~Insert the following~~ Optional provision (29 U.S.C. §§705(10)(A)-(B), (20)(C)(v), (20)(D) and 42 U.S.C. §12114):

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

1. Currently using illegal drugs;
2. Having a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, are unable to perform the duties of the job; or
3. Whose current alcohol use prevents them from performing the job's duties or constitutes a direct threat to the property or safety of others.

Persons who have successfully completed or are participating in a drug rehabilitation program are considered *disabled*.

²⁰ Districts may not make residency in the district a condition of employment for teachers or educational support personnel. 105 ILCS 5/24-4.1, 5/10-23.5. This ban on residency requirements for teachers applies only to instructional personnel, and not, for example, to assistant principals. *Owen v. Kankakee Sch. Dist.*, 261 Ill.App.3d 298 (3rd Dist. 1994). Districts also may not ask an applicant, or the applicant's previous employer, whether the applicant ever received, or filed a claim for, benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act. 820 ILCS 55/10(a). Districts are also prohibited from requiring, requesting, or coercing an employee or potential employee to provide a user name and password or any password or other related account information to gain or demand access to his or her personal online account. 820 ILCS 55/10(b), amended by P.A. 99-610. While the law does not prohibit employers from viewing public information, consult the board attorney before engaging in this practice.

²¹ School districts must accommodate mothers who choose to continue breastfeeding after returning to work. See 740 ILCS 137/, Right to Breastfeed Act; 820 ILCS 260/, amended by P.A. 100-1003, Nursing Mothers in the Workplace Act; and 29 U.S.C. §207(r), Fair Labor Standards Act. See sample language for a personnel handbook in 5:10-AP, *Workplace Accommodations for Nursing Mothers*.

²² 410 ILCS 130/40; 77 Ill.Admin.Code Part 946. To legally use medical cannabis, an individual must first become a *registered qualifying patient*. Their use of cannabis (e.g. permissible locations) is governed by the Compassionate Use of Medical Cannabis Pilot Program Act. 410 ILCS 130/, amended by P.A. 100-660. There are many situations in which no one, even a registered qualifying patient, may possess or use cannabis except as provided under *Ashley's Law* (105 ILCS 5/22-33, added by P.A. 100-660), including in a school bus or on the grounds of any preschool, or primary or secondary school. 410 ILCS 130/30(a)(2)(3), amended by P.A. 100-660. See policy 5:50, *Drug- and Alcohol-Free Workplace; Tobacco Prohibition*.

employee or applicant did not make a knowingly false accusation nor provide knowingly false information. ²³

Administrative Implementation

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

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²³ 775 ILCS 5/6-101. Discrimination on the basis of a request for or use of a reasonable accommodation is a civil rights violation under the IHRA. *Id.* Most discrimination laws prohibit retaliation against employees who oppose practices made unlawful by those laws, including, for example, the EEOA, Title IX, ADA, ADEA, Victims' Economic Security and Safety Act, the ~~Ill. Equal Pay Act~~ EPA, and the Ill. Whistleblower Act.

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

The Ill. False Claims Act defines *State* to include school districts. 740 ILCS 175/2(a). Thus, boards may seek a penalty from a person for making a false claim for money or property. 740 ILCS 175/4. For information regarding the IWA and the tort of retaliatory discharge. See *Thomas v. Guardsmark*, 487 F.3d 531 (7th Cir. 2007)(discussing the elements of retaliatory discharge and IWA); *Sherman v. Kraft General Foods, Inc.*, 272 Ill.App.3d 833 (4th Dist. 1995)(finding employee who reported asbestos hazard had a cause of action for retaliatory discharge).

²⁴ Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. The U.S. Dept. of Education's Office for Civil Rights prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (a) a *Dear Colleague Letter on Title IX Coordinators*; (b) a *Letter to Title IX Coordinators* that provides them with more information about their role; and (c) a *Title IX Resource Guide* that includes an overview of Title IX's requirements with respect to several key issues. See www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html.

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.

Nondiscrimination Coordinator 25:

Name

Address

Email

Telephone

Complaint Managers:

Name

Address

Email

Telephone

Name

Address

Email

Telephone

The Superintendent shall also use reasonable measures to inform staff members and applicants that the District is an equal opportunity employer, such as, by posting required notices and including this policy in the appropriate handbooks. 26

Minority Recruitment 27

The District will attempt to recruit and hire minority employees. The implementation of this policy may include advertising openings in minority publications, participating in minority job fairs, and recruiting at colleges and universities with significant minority enrollments. This policy, however,

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25 Sample policy 2:260, *Uniform Grievance Procedure*, states that a district's Nondiscrimination Coordinator also serves as its Title IX Coordinator. 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.

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

27 All districts must have a policy on minority recruitment. 105 ILCS 5/10-20.7a. Unlike minority recruitment efforts, affirmative action plans are subject to significant scrutiny because of the potential for reverse discrimination. The U.S. Constitution's guarantee of equal protection prohibits school districts from using racial hiring quotas without evidence of past discrimination. See 29 C.F.R. §1608.1 *et seq.* (EEOC's guidelines for affirmative action plans); *Wygant v. Jackson Bd. of Ed.*, 476 U.S. 267 (1986) (The goal of remedying societal discrimination does not justify race-based layoffs.); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989) (Minority contractor quota struck; quotas must be narrowly tailored to remedy past discrimination and the city failed to identify the need for remedial action and whether race-neutral alternatives existed.).

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

does not require or permit the District to give preferential treatment or special rights based on a protected status without evidence of past discrimination.

LEGAL REF.: 8 U.S.C. §1324a et seq., Immigration Reform and Control Act.
20 U.S.C. §1681 et seq., Title IX of the Education Amendments of 1972, implemented by 34 C.F.R. Part 106.
29 U.S.C. §206(d), Equal Pay Act.
29 U.S.C. §621 et seq., Age Discrimination in Employment Act.
29 U.S.C. §791 et seq., Rehabilitation Act of 1973.
38 U.S.C. §4301 et seq., Uniformed Services Employment and Reemployment Rights Act (1994).
42 U.S.C. §1981 et seq., Civil Rights Act of 1991.
42 U.S.C. §2000e et seq., Title VII of the Civil Rights Act of 1964, implemented by 29 C.F.R. Part 1601.
42 U.S.C. §2000ff et seq., Genetic Information Nondiscrimination Act of 2008.
42 U.S.C. §2000d et seq., Title VI of the Civil Rights Act of 1964.
42 U.S.C. §2000e(k), Pregnancy Discrimination Act.
42 U.S.C. §12111 et seq., Americans with Disabilities Act, Title I.
Ill. Constitution, Art. I, §§17, 18, and 19.
105 ILCS 5/10-20.7, 5/20.7a, 5/21.1, 5/22.4, 5/23.5, 5/22-19, 5/24-4, 5/24-4.1, and 5/24-7.
410 ILCS 130/40, Compassionate Use of Medical Cannabis Pilot Program Act.
410 ILCS 513/25, Genetic Information Protection Act.
740 ILCS 174/, Ill. Whistleblower Act.
775 ILCS 5/1-103, 5/2-102, 103, and 5/6-101, Ill. Human Rights Act.
775 ILCS 35/5, Religious Freedom Restoration Act.
820 ILCS 55/10, Right to Privacy in the Workplace Act.
820 ILCS 70/, Employee Credit Privacy Act.
820 ILCS 75/, Job Opportunities for Qualified Applicants Act.
820 ILCS 112/, Ill. Equal Pay Act of 2003.
820 ILCS 180/30, Victims' Economic Security and Safety Act.
820 ILCS 260/, Nursing Mothers in the Workplace Act.

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

Professional Personnel

Leaves of Absence ¹

Each of the provisions in this policy applies to all professional personnel to the extent that it does not conflict with an applicable collective bargaining agreement or individual employment contract or benefit plan; in the event of a conflict, such provision is severable and the applicable bargaining agreement or individual agreement will control.

Sick and Bereavement Leave ²

Each full-time professional staff member is granted 10 days sick leave each school year at full pay. Unused days are allowed to accumulate to 180 days. Sick leave is defined in State law as personal illness, quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, or placement for adoption.

As a condition for paying sick leave after three days absence for personal illness or 30 days for birth or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may require that the staff member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, (2) a chiropractic physician licensed under the Medical Practice Act, (3) an advanced practice registered nurse who has a written collaborative agreement

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

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

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. It also provides policy coverage for those professional personnel who are not included in a bargaining unit or have employment contracts with conflicting provisions. Alternatively, if the policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the applicable collective bargaining agreement."

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA); (29 U.S.C. §2612), amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (Pub.L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (1) the birth and first-year care of a child; (2) the adoption or foster placement of a child; (3) the serious health condition of an employee's spouse, parent, or child; (4) the employee's own serious health condition; (5) the existence of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on *covered active duty*; and (6) to care for the employee's spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness. Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee's FMLA entitlement. 29 C.F.R. §825.207. See policy 5:185, *Family and Medical Leave*.

A plethora of State laws grant leaves to employees of the State and municipalities but are not applicable to school districts, including the Employee Blood Donation Leave Act (820 ILCS 149/), Local Government Disaster Service Volunteer Act (50 ILCS 122/), Organ Donor Leave Act (5 ILCS 327/), and Civil Air Patrol Leave Act (820 ILCS 148/).

² The provisions in this section are required by 105 ILCS 5/24-6, amended by P.A. 100-513. Each specified number of days in this section is the statutory minimum. Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements.

Consult the board attorney about the Employee Sick Leave Act, 820 ILCS 191/, added by P.A. 99-841, ~~eff. 1-1-17~~. It prohibits employers from limiting the use of sick time to an employee's own illnesses and allows employees to use employer-provided sick leave to care for an ill or injured *family member* or to attend a medical appointment with a family member. The law defines family members as a child, stepchild, spouse, domestic partner, sibling, parent, mother- or father-in-law, grandchild, grandparent, or stepparent. *Id.* at 191/10(b). Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury.

with a collaborating physician that authorizes the advanced practice registered nurse to perform health examinations, (4) a physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (5) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than three days for personal illness, the District shall pay the expenses incurred by the employee.

The use of paid sick leave for adoption or placement for adoption is limited to 30 days unless a longer leave is provided in an applicable collective bargaining agreement. The Superintendent may require that the employee provide evidence that the formal adoption process is underway. ³

Child Bereavement Leave ⁴

State law allows a maximum of 10 unpaid work days for eligible employees (Family and Medical Leave Act of 1993, 20 U.S.C. §2601 ~~et seq.~~ et seq.) to take child bereavement leave. The purpose, requirements, scheduling, and all other terms of the leave are governed by the Child Bereavement Leave Act. Child bereavement leave allows for: (1) attendance by the bereaved staff member at the funeral or alternative to a funeral of his or her child, (2) making arrangements necessitated by the death of the staff member's child, or (3) grieving the death of the staff member's child, without any adverse employment action.

The leave must be completed within 60 days after the date on which the employee received notice of the death of his or her child. However, in the event of the death of more than one child in a 12-month period, an employee is entitled to up to a total of six weeks of bereavement leave during the 12-month period, subject to certain restrictions under State and federal law. Other existing forms of leave may be substituted for the leave provided in the Child Bereavement Leave Act. This policy does not create any right for an employee to take child bereavement leave that is inconsistent with the Child Bereavement Leave Act.

Sabbatical Leave ⁵

Sabbatical leave may be granted in accordance with the School Code.

Personal Leave ⁶

Professional staff members are granted one personal leave day per year. A personal leave day is defined as a day to allow professional personnel time to conduct personal business (but not vacation, travel, or work stoppage), which is impossible to schedule at a time other than during a school day. Any unused personal leave day in a school year will be credited to the cumulative sick leave.

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³ 105 ILCS 5/24-6.

⁴ Child Bereavement Leave Act, 820 ILCS 154/, added by P.A. 99-703. These paragraphs discuss child bereavement leave. 820 ILCS 154/5, added by P.A. 99-703, defines an *eligible employee* under the same terms as an employee under FMLA (29 U.S.C. 2601 ~~et seq.~~ et seq.). See f/n 1 above.

The Act also provides that the leave must be completed within 60 days of the employee learning of the death of his or her *child*, as defined by 820 ILCS 154/, added by P.A. 99-703. However, that 60 day limitation does not apply where more than one child dies in a 12-month period. There may be times where an employer may want to grant more than 10 unpaid work days, e.g., when a deceased child lived in a foreign country, etc. Consult the board attorney to resolve the complexities of determining whether an employee is an eligible employee under the FMLA that would trigger this Act.

⁵ State law provides guidelines for sabbatical leaves but does not require boards to offer them. 105 ILCS 5/24-6.1.

⁶ State law does not address personal leave. It is not uncommon for professional staff to be granted more than one day of personal leave a year.

The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, personal leave requests should be submitted to the Building Principal three days in advance of the requested date,
2. No personal leave days may be used immediately before or immediately after a holiday unless the Superintendent grants prior approval,
3. Personal leave may not be used in increments of less than one-half day,
4. Personal leave days are subject to a substitute's availability,
5. Personal leave days may not be used during the first and/or last five days of the school year,
6. Personal leave days may not be used on in-service and/or institute training days, and
7. Personal leave may not be used by more than 10% of the teaching staff in each building at the same time.

Leave of Absence Without Pay ⁷

The Board may grant a leave of absence without pay to tenured professional staff members who have rendered satisfactory service and desire to return to employment in a similar capacity at a time determined by the Board.

Each leave of absence shall be of the shortest possible duration required to meet the leave's purpose consistent with a reasonable continuity of instruction for students.

Leave to Serve as an Election Judge ⁸

Any staff member who was appointed to serve as an election judge under State law may, after giving at least 20-days' written notice to the District, be absent without pay for the purpose of serving as an election judge. The staff member is not required to use any form of paid leave to serve as an election judge. No more than 10% of the District's employees may be absent to serve as election judges on the same Election Day.

Child-Rearing Leave ⁹

The Board shall grant a professional staff member's request for a non-paid, child-rearing leave, not to exceed the balance of the school year plus one additional school year (but in no event shall such leave

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⁷ State law does not address leaves of absence without pay other than stating that a mutually agreed leave will not affect a teacher's contractual continued service. 105 ILCS 5/24-13.

⁸ This paragraph restates 10 ILCS 5/13-2.5. The statute does not state whether the notice requirement is *calendar* days or *business* days. Support for it being *calendar* days is found in 10 ILCS 5/1-6; support for it being *business* days is found in 10 ILCS 5/1-3.

Rather than duplicate the statute's requirements in separate policies, ~~board~~-policy 5:330, *Educational Support Personnel—Sick Days, Vacation, Holidays, and Leaves*, grants the leave to support personnel on the terms applicable to professional staff.

⁹ The School Code does not address child-rearing. FMLA grants eligible employees a combined total of 12 weeks each year, with exceptions for teachers at the end of the school year, for, among other things, a child's: (1) birth and first-year care, and (2) adoption or foster placement (see policy 5:185, *Family and Medical Leave*). Districts not covered by the FMLA must treat a request for child-care leave to care for an adopted infant on terms comparable to those given biological mothers. McWright v. Alexander, 982 F.2d 222 (7th Cir. 1992³).

exceed three semesters), provided the request complies with this policy. Nothing in this section shall prohibit a professional staff member from using paid sick days as provided in this policy. ¹⁰

A teacher must request, if possible, a child-rearing leave by notifying the Superintendent in writing no later than 90 days before the requested leave's beginning date.¹¹ The request should include the proposed leave dates. The leave shall end before a new school year begins or before the first day of school after winter recess. ¹²

Subject to the insurance carrier's approval, the teacher may maintain insurance benefits at his or her own expense during a child-rearing leave.

A professional staff member desiring to return before the leave's expiration will be assigned to an available vacancy for which the teacher is qualified, subject to scheduling efficiency and instruction continuity.

Leaves for Service in the Military ¹³

Leaves for service in the U.S. Armed Services or any of its reserve components and the National Guard, as well as re-employment rights, will be granted in accordance with State and federal law. A professional staff member hired to replace one in military service does not acquire tenure.

General Assembly Leave ¹⁴

Leaves for service in the General Assembly, as well as re-employment rights, will be granted in accordance with State and federal law. A professional staff member hired to replace one in the General Assembly does not acquire tenure.

Leave for Employment in Department of Defense ¹⁵

The Board may grant teachers a leave of absence to accept employment in a Department of Defense overseas school.

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¹⁰ Districts offering a child-rearing or maternity leave must be very careful not to violate anti-discrimination laws. Districts can prohibit pregnant teachers from combining paid disability leave with an unpaid maternity leave, provided that non-pregnant teachers are likewise prohibited from combining a paid disability leave with an unpaid general leave of absence. Maganuco v. Leyden Comm. High Sch. Dist. 212, 939 F.2d 440 (7th Cir., 1991); U.S. v. Consol. High Sch. Dist. 230, 983 F.2d 790 (7th Cir. 1993); E.E.O.C. v. Elgin Teachers' Ass'n., 780 F.Supp. 1195 (N.D.Ill. 1991). A sick leave bank exclusion of maternity benefits violates Title VII. U.S. v. Consol. High Sch. Dist. 230, *supra*.

¹¹ The length of the notice - here 90 days - is *not* covered by State or federal law. If an employee fails to provide this notice, the employee still has the right to request a family and medical leave which has a much shorter notice requirement (see policy 5:185, *Family and Medical Leave*), and could be followed by a child-rearing leave.

¹² For a high school, omit "the first day of school after winter recess" and insert "at the semester break." Alternatively, the board may want to be more flexible by stating:

Every effort shall be made to have the leave minimally interrupt instructional continuity by ending . . .

¹³ Required by: the School Code (105 ILCS 5/10-20.7b, 5/24-13, and 5/24-13.1); the Service Member Employment and Reemployment Rights Act (330 ILCS 61/), Military Leave of Absence Act (5 ILCS 325/), added by P.A. 100-1101, streamlining several job-related protection laws into one statute, mandating added mandatory leave for active service, "other training or duty required by the United States Armed Forces" and requiring the public employer to make up the difference between military pay and regular compensation); Service Member's Employment Tenure Act (330 ILCS 60/4); Public Employee Armed Services Rights Act (5 ILCS 330/4); National Guard Employment Rights (20 ILCS 1805/30.20); and the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301 et seq.).

¹⁴ Required by 105 ILCS 5/24-13.

¹⁵ State law provides guidelines for Dept. of Defense leaves but does not require boards to offer them. 105 ILCS 5/24-13.1.

School Visitation Leave

An eligible professional staff member is entitled to eight hours during any school year, no more than four hours of which may be taken on any given day, to attend school conferences or classroom activities related to the teacher's child, if the conference or activity cannot be scheduled during non-work hours.¹⁶ Professional staff members must first use all accrued vacation leave, personal leave, compensatory leave, and any other leave that may be granted to the professional staff member, except sick, and disability leave. ¹⁷

The Superintendent shall develop administrative procedures implementing this policy consistent with the School Visitation Rights Act. ¹⁸

Leaves for Victims of Domestic or Sexual Violence ¹⁹

An unpaid leave from work is available to any staff member who: (1) is a victim of domestic or sexual violence, or (2) has a family or household member who is a victim of domestic or sexual violence whose interests are not adverse to the employee as it relates to the domestic or sexual violence. The unpaid leave allows the employee to seek medical help, legal assistance, counseling, safety planning, and other assistance without suffering adverse employment action.

The Victims' Economic Security and Safety Act governs the purpose, requirements, scheduling, and continuity of benefits, and all other terms of the leave. Accordingly, if the District employs at least 50 employees, an employee is entitled to a total of 12 work weeks of unpaid leave during any 12-month period.²⁰ Neither the law nor this policy creates a right for an employee to take unpaid leave that exceeds the unpaid leave time allowed under, or is in addition to the unpaid leave time permitted by, the federal Family and Medical Leave Act of 1993 (29 U.S.C. §2601 et seq.). ²¹

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¹⁶ 820 ILCS 147/15.

¹⁷ Id. The school visitation leave entitlement applies to both professional and educational support personnel. Rather than duplicate its requirements in separate policies, ~~board policy 5:330, Educational Support Personnel—Sick Days, Vacation, Holidays, and Leaves~~, grants the leave on the same terms applicable to professional staff.

¹⁸ 820 ILCS 147/.

¹⁹ Required by the Victims' Economic Security and Safety Act, (VESSA), (820 ILCS 180/ and 56 Ill.Admin.Code §280). While the law applies to all school districts (820 ILCS 180/10(10), amended by P.A. 99-765), the number of employees determines the number of total workweeks of leave available during any 12-month period (820 ILCS 180/20(a)(2)), amended by P.A. 99-765, ~~eff. 1-1-17~~. The term *employee* includes part-time workers. The Ill. Dept. of Labor must furnish to all employers a notice summarizing the law's requirements (*Your Rights Under Illinois Employment Laws* at: www.illinois.gov/idol/Employers/Documents/flsposter.pdf). All districts must post this notice in a conspicuous place where notices to employees are customarily posted.

²⁰ If the district employs fewer than 50 employees, it may substitute the following sentence: "Accordingly, if the District employs at least 15 but not more than 49 employees, an employee is entitled to a total of eight work weeks of unpaid leave during any 12-month period." 820 ILCS 180/20(a)(2).

If the district employs at least one but not more than 14 employees, it may substitute the following sentence: "Accordingly, if the District employs at least one but not more than 14 employees, an employee is entitled to a total four (4) work weeks of leave during any 12-month period." 820 ILCS 180/20(a)(2), amended by P.A. 99-765, ~~eff. 1-1-17~~.

²¹ VESSA states that an employee does not have a right to take unpaid leave that exceeds the unpaid leave time allowed under the FMLA. 820 ILCS 180/20(a)(2). Section 25 creates an ambiguity by stating, "[t]he employer may not require the employee to substitute available paid or unpaid leave for [leave available to victims of domestic or sexual violence]," 820 ILCS 180/25. Contact the board attorney for advice resolving this ambiguity.

Leaves to Serve as an Officer or Trustee of a Specific Organization

Upon request, the Board will grant: (1) an unpaid leave of absence to an elected officer of a State or national teacher organization that represents teachers in collective bargaining negotiations,²² (2) twenty days of paid leave of absence per year to a trustee of the Teachers' Retirement System in accordance with 105 ILCS 5/24-6.3,²³ and (3) a paid leave of absence for the local association president of a State teacher association that is an exclusive bargaining agent in the District, or his or her designee, to attend meetings, workshops, or seminars as described in 105 ILCS 5/24-6.2. ²⁴

LEGAL REF.: 10 ILCS 5/13-2.5
20 ILCS 1805/30.1 *et seq.*
105 ILCS 5/24-6, 5/24-6.1, 5/24-6.2, 5/24-6.3, 5/24-13, and 5/24-13.1.
820 ILCS 147/, School Visitation Rights Act.
820 ILCS 154/, Child Bereavement Leave Act.
820 ILCS 180/, Victims' Economic Security and Safety Act.

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical Leave), 5:330 (~~Educational Support Personnel—Sick Days, Vacation, Holidays, and Leaves~~)

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

²² Required by 105 ILCS 5/24-13.

²³ Required by 105 ILCS 5/24-6.3. See [policy 5:330, ~~Educational Support Personnel—Sick Days, Vacation, Holidays, and Leaves~~](#), for the leave for an elected trustee for the Ill. Municipal Retirement Fund.

²⁴ Required by 105 ILCS 5/24-6.2.

Educational Support Personnel

Sick Days, Vacation, Holidays, and Leaves ¹

Each of the provisions in this policy applies to all educational support personnel to the extent that it does not conflict with an applicable collective bargaining agreement or individual employment contract or benefit plan; in the event of a conflict, such provision is severable and the applicable bargaining agreement or individual agreement will control.

Sick and Bereavement Leave ²

Full or part-time educational support personnel who work at least 600 hours per year receive 10 paid sick leave days per year. Part-time employees will receive sick leave pay equivalent to their regular

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

This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. The introductory paragraph recognizes that an applicable collective bargaining agreement or individual employment contract will supersede a conflicting provision of the policy. Alternatively, if the policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the applicable collective bargaining agreement."

Districts must coordinate leaves provided by State law and the local bargaining agreement with the leave granted by the Family and Medical Leave Act (FMLA), 29 U.S.C. §2612, amended by Sec. 565 of the National Defense Authorization Act for Fiscal Year 2010 (Pub.L. 111-84). The FMLA grants eligible employees 12 weeks unpaid leave each year for: (1) the birth and first-year care of a child; (2) the adoption or foster placement of a child; (3) the serious health condition of an employee's spouse, parent, or child; (4) the employee's own serious health condition; (5) the existence of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on (or has been notified of an impending call to) *covered active duty* in the Armed Forces; and (6) to care for the employee's spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness. The definition of *covered servicemember* includes a veteran "who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness" if the veteran was a member of the Armed Forces "at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy." Districts are permitted to count paid leave (granted by State law or board policy) taken for an FMLA purpose against an employee's FMLA entitlement. 29 C.F.R. §825.207. See [policy](#) 5:185, *Family and Medical Leave*.

A plethora of State laws grant leaves to employees of the State and municipalities, but are not applicable to school districts, including the Employee Blood Donation Leave Act (820 ILCS 149/), Local Government Disaster Service Volunteer Act (50 ILCS 122/), Organ Donor Leave Act (5 ILCS 327/), and Civil Air Patrol Leave Act (820 ILCS 148/).

² This section contains the minimum benefits provided by 105 ILCS 5/24-6. Each specified number of days in this section is the statutory minimum. The School Code does not address whether an employee's 10 paid sick leave days are available upon employment, accrued over months, or after working for a certain period of time, e.g., one year. Also be aware that the Employee Sick Leave Act (820 ILCS 191/, added by P.A. 99-841) allows employees to use employer-provided sick leave to care for an ill or injured *family* member or to attend a medical appointment with a family member. The law defines family members as a child, stepchild, spouse, domestic partner, sibling, parent, mother- or father-in-law, grandchild, grandparent, or stepparent. *Id.* at 191/10(b). Leave may be taken under the same terms for which the employee would be permitted to take leave for his or her own illness or injury. Before adopting this policy or applying its provisions, the district should examine any applicable bargaining agreements. Strict accounting of unused sick days is important to avoid:

1. Employees accumulating sick time on a full-time basis when they are truly working part-time hours;
2. Inconsistent treatment; and
3. Inaccurate reporting to IMRF (credit is given for full day unused sick days upon retirement). 40 ILCS 5/7-139(a)(8).

workday. Unused sick leave shall accumulate to a maximum of 180 days, including the leave of the current year. ³

Sick leave is defined in State law as personal illness, quarantine at home, serious illness or death in the immediate family or household, or birth, adoption, or placement for adoption. The Superintendent and/or designee shall monitor the use of sick leave.

As a condition for paying sick leave after three days absence for personal illness or 30 days for birth or as the Board or Superintendent deem necessary in other cases, the Board or Superintendent may require that the staff member provide a certificate from: (1) a physician licensed in Illinois to practice medicine and surgery in all its branches, (2) a chiropractic physician licensed under the Medical Practice Act, (3) an advanced practice registered nurse who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice registered nurse to perform health examinations, (4) a physician assistant who has been delegated the authority to perform health examinations by his or her supervising physician, or (5) if the treatment is by prayer or spiritual means, a spiritual adviser or practitioner of the employee's faith. If the Board or Superintendent requires a certificate during a leave of less than three days for personal illness, the District shall pay the expenses incurred by the employee.

The use of paid sick leave for adoption or placement for adoption is limited to 30 days unless a longer leave is provided in an applicable collective bargaining agreement. The Superintendent may require that the employee provide evidence that the formal adoption process is underway. ⁴

Vacation ⁵

Twelve-month employees shall be eligible for paid vacation days according to the following schedule:

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³ As this policy is consistent with the minimum requirements of State law, this provision on the maximum number of sick days that may be accumulated is based on the minimum number required as stated in 105 ILCS 5/24-6. The number may be increased to meet or exceed the number IMRF will recognize for retirement credit purposes. The following alternative does this: "Unused sick leave shall accumulate to the maximum number of days that IMRF will recognize for retirement credit purposes."

The following optional provisions apply to boards that want to address the IMRF's requirement that public bodies must have a written plan allowing eligible employees to convert their eligible accumulated sick leave to service credit upon their retirement. See 40 ILCS 5/7-139(a)(8). See also IMRF General Memorandum #555 at:

www.imrf.org/en/publications-and-archive/general-memos/2007-general-memos/general-memo-555.

Option 1: No collective bargaining agreement applies and the board wants to publicize its written plan. Insert the following sentence: This policy is the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon a District employee's retirement under the Illinois Municipal Retirement Fund.

Option 2: A local collective bargaining agreement contains the written plan and the board wants to publicize it. Insert the following sentence: Please refer to the applicable collective bargaining agreement(s) for the District's written plan allowing eligible employees to convert eligible accumulated sick leave to service credit upon an employee's retirement under the Illinois Municipal Retirement Fund.

Option 3: A district maintains two separate sick leave plans, one for employees under a collective bargaining agreement, and one for non-unionized employees. Insert the text for both Option 1 and Option 2.

Note: If Options 1, 2, or 3 are chosen, add 40 ILCS 5/7-139 to the Legal References. If the board does not have a written sick leave plan for purposes of IMRF sick leave to service credit conversion or does not wish to include it in the policy, do not include any of the options above or add the citation to the Legal Reference.

⁴ 105 ILCS 5/24-6, amended by P.A. 100-513.

⁵ State law does not require districts to give employees vacations.

<u>Length of Employment</u>		<u>Monthly Accumulation</u>	<u>Maximum Vacation Leave Earned Per Year</u>
<u>From:</u>	<u>To:</u>		
Beginning of year 2	End of year 5	0.83 Days	10 Days per year
Beginning of year 6	End of year 15	1.25 Days	15 Days per year
Beginning of year 16	End of year	1.67 Days	20 Days per year

Part-time employees who work at least half-time are entitled to vacation days on the same basis as full-time employees, but the pay will be based on the employee's average number of part-time hours per week during the last vacation accrual year. The Superintendent will determine the procedure for requesting vacation.

Vacation days earned in one fiscal year must be used by the end of the following fiscal year; they do not accumulate. Employees resigning or whose employment is terminated are entitled to the monetary equivalent of all earned vacation. ⁶

Holidays ⁷

Unless the District has a waiver or modification of the School Code pursuant to Section 2-3.25g or 24-2(b) allowing it to schedule school on a holiday listed below, District employees will not be required to work on:

New Year's Day	Labor Day
Martin Luther King Jr.'s Birthday	Columbus Day
Abraham Lincoln's Birthday	Veteran's Day
Casimir Pulaski's Birthday	Thanksgiving Day
Memorial Day	Christmas Day
Independence Day	

A holiday will not cause a deduction from an employee's time or compensation. The District may require educational support personnel to work on a school holiday during an emergency or for the continued operation and maintenance of facilities or property.

Personal Leave ⁸

Full-time educational support personnel have one paid personal leave day per year. The use of a personal day is subject to the following conditions:

1. Except in cases of emergency or unavoidable situations, a personal leave request should be submitted to the Building Principal three days before the requested date.

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

⁶ Required by 820 ILCS 115/5 and 56 Ill.Admin.Code §300.520 (Earned Vacations).

⁷ Holidays are listed in 105 ILCS 5/24-2. For information on the waiver process, see 2:20-E, *Waiver and Modification Request Resource Guide*. Holidays not specified in the statute may be added to the policy; however, boards adding additional holidays should monitor and review to ensure the list remains current.

A State-mandated school holiday on *Good Friday* is unconstitutional according to *Metzl v. Leininger*, 57 F.3d 618 (7th Cir. 1995). Closing school on religious holidays may be permissible for those districts able to demonstrate that remaining open would be a waste of educational resources because of widespread absenteeism. Also, districts may be able to close school on Good Friday by adopting a *spring holiday* rationale or ensuring that it falls within spring break. School districts should discuss their options, including the collective bargaining implications, with their board attorney.

⁸ State law does not address personal leave. It is not uncommon for boards to grant educational support personnel the same number of personal leave days as are granted to professional staff.

2. No personal leave day may be used immediately before or immediately after a holiday, or during the first and/or last five days of the school year, unless the Superintendent grants prior approval.
3. Personal leave may not be used in increments of less than one-half day.
4. Personal leave is subject to any necessary replacement's availability.
5. Personal leave may not be used on an in-service training day and/or institute training days.
6. Personal leave may not be used when the employee's absence would create an undue hardship.

Leave to Serve as a Trustee of the Illinois Municipal Retirement Fund

Upon request, the Board will grant 20 days of paid leave of absence per year to a trustee of the Illinois Municipal Retirement Fund in accordance with 105 ILCS 5/24-6.3. ⁹

Other Leaves

Educational support personnel receive the following leaves on the same terms and conditions granted professional personnel in Board policy 5:250, *Leaves of Absence*:

1. Leaves for Service in the Military and General Assembly. ¹⁰
2. School Visitation Leave. ¹¹
3. Leaves for Victims of Domestic or Sexual Violence. ¹²
4. Child Bereavement Leave. ¹³
5. Leave to serve as an election judge. ¹⁴

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⁹ Required by 105 ILCS 5/24-6.3. A similar leave exists for an elected trustee for the Ill. Teachers' Retirement System. See 5:250, *Professional Personnel—Leaves of Absence*.

¹⁰ Military leave is governed by: ~~the~~ The School Code (105 ILCS 5/10-20.7b, 5/24-13, and 13.1); the *Service Member Employment and Reemployment Rights Act* (330 ILCS 61/); ~~Military Leave of Absence Act (5 ILCS 325/ added by P.A. 100-1101, streamlining several job-related protection laws into one statute, mandating added mandatory leave for active service "other training or duty required by the United States Armed Forces" and to requiring the public employer to make up the difference between military pay and regular compensation); Service Member's Employment Tenure Act (330 ILCS 60/4); Public Employee Armed Services Rights Act (5 ILCS 330/4); National Guard Employment Rights (20 ILCS 1805/30.20); and the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. §4301 et seq.).~~

Granting General Assembly leave to ESPs is optional.

¹¹ 820 ILCS 147/. See policy 5:250, *Professional Personnel—Leaves of Absence*, and 5:250-AP, *School Visitation Leave*.

¹² Required by Victims' Economic Security and Safety Act (820 ILCS 180/, amended by P.A. 99-765) and 56 Ill.Admin.Code §280. Important information about this leave is discussed in f/ns 19 and 20 of 5:250, *Professional Personnel—Leaves of Absence*.

¹³ 820 ILCS 154/, added by P.A. 99-703. Important information about this leave is discussed in f/n 4 of 5:250, *Professional Personnel—Leaves of Absence*.

¹⁴ 10 ILCS 5/13-2.5.

LEGAL REF.: 20 ILCS 1805/30.1 et seq.
105 ILCS 5/10-20.7b, 5/24-2, and 5/24-6.
820 ILCS 147, School Visitation Rights Act.
~~and 180/.~~
820 ILCS 154/, Child Bereavement Leave Act.
820 ILCS 180/, Victims' Economic Security and Safety Act.
School Dist. 151 v. ISBE, 154 Ill.App.3d 375 (1st Dist. 1987); Elder v. Sch. Dist.
No.127 1/2, 60 Ill.App.2d 56 (1st Dist. 1965).

CROSS REF.: 5:180 (Temporary Illness or Temporary Incapacity), 5:185 (Family and Medical
Leave), 5:250 (~~Professional Personnel~~—Leaves of Absence)

Instruction

School Accountability ¹

According to the Illinois General Assembly, the primary purpose of schooling is the transmission of knowledge and culture through which students learn in areas necessary to their continuing development and entry into the world of work.² To fulfill that purpose, the Illinois State Board of Education (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 Illinois State Board of Education (ISBE) rules, and continuously keep the Board informed:

1. Prepare each school's annual recognition application and quality assurance appraisal, whether internal or external, to assess each school's continuous school improvement.⁴
2. 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, and P.A. 99-657, and 100-1046; 5/2-3.25d, amended by P.A. 99-193; 5/2-3.64a-5, amended by P.A. 100-1046, 105 ILCS 5/2-3.25a, amended by P.A. 99-193 significantly revised the system of standards for school districts and schools, and 105 ILCS 5/2-3.25a, amended by P.A. 99-657, then delayed certain implementation dates by one school year, and 105 ILCS 5/2-3.25a, amended by P.A. 100-1046, further revised the system of standards for school districts and schools. ISBE must establish recognition standards for student performance and school improvement for all districts and their individual schools. ~~The recognition standard must be an outcome-based, balanced accountability measure. Subject to funding, the balanced accountability measure must focus on student performance and, beginning in the 2017-18 school year for some districts and for all districts by the 2022-23 school year, professional practice. The student performance component must focus on student outcomes and closing the achievement gaps using a Multiple Measure Index and Annual Measurable Objectives. ISBE must establish a Multiple Measure Index and Annual Measurable Objectives for each school that address the school's overall performance in terms of both academic success and equity (105 ILCS 5/2-3.25d(a), amended by P.A. 99-193). A process for assistance, remediation, and intervention exists for low-performing districts known as priority and focus districts, as those terms are defined by 105 ILCS 5/2-3.25d-5, added by P.A. 99-193 (105 ILCS 5/2-3.25e-5 and 5/2-3.25f, amended by P.A. 99-193). 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 ~~See 105 ILCS 5/2-3.153 of the School Code, annually~~ administer ~~at least biennially a climate survey of learning conditions on~~ the instructional environment within the school to, at minimum, students in grades ~~64~~ 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~~, 5/2-3.25d-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~~, 5/10-21.3a, 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)

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⁶ The requirements around district and school improvement plans are unknown until ISBE revises its rules following P.A.s 99-193 and 100-1046. ~~This Public Act 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, amended by P.A. 99-193), but then P.A. 100-1046 repealed 105 ILCS 5/2-3.25d in its entirety.~~ 105 ILCS 5/2-3.25f 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 99-193, 100-807, and 100-1121. 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 ~~selected~~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 August 1 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

Student Social and Emotional Development 1

Social and emotional learning (SEL) is defined as the process through which students enhance their ability to integrate thinking, feeling, and behaving to achieve important life tasks. Students competent in SEL are able to recognize and manage their emotions, establish healthy relationships, set positive goals, meet personal and social needs, and make responsible and ethical decisions. ²

The Superintendent shall incorporate SEL into the District's curriculum and other educational programs consistent with the District's mission and the goals and benchmarks of the Ill. Learning Standards.³ The Ill. Learning Standards include three goals for students: ⁴

1. Develop self-awareness and self-management skills to achieve school and life success.
2. Use social-awareness and interpersonal skills to establish and maintain positive relationships.
3. Demonstrate decision-making skills and responsible behaviors in personal, school, and community contexts.

The incorporation of SEL objectives into the District's curriculum and other educational programs may include but is not limited to: ⁵

1. Classroom and school-wide programming to foster a safe, supportive learning environment where students feel respected and valued. This may include incorporating scientifically based,

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¹ State law requires this subject matter be covered by policy (405 ILCS 49/15(b)), and; it required districts to submit it to the Ill. State Board of Education (-ISBE) once by 8/31/04.

² This text paraphrases See the definition in the Ill. Children's Mental Health Partnership's *Strategic Plan for Building a Comprehensive Children's Mental Health System in Illinois*, pg. 73, Appendix C, starting at pg. 69 at website: http://icmhp.org/wordpress/wp-content/uploads/2015/12/ICMHP_CMH-Strategic_Plan.pdf
www.icmhp.org/initiatives/SocialandEmotionalStandards.htm.

³ Required by the Children's Mental Health Act of 2003, 405 ILCS 49/. ISBE incorporated social and emotional development standards into the Ill. Learning Standards. For more information see: www.isbe.net/pages/social-emotional-learning-standards.aspx
www.isbe.net/files/social-emotional/standards.htm. School social workers may implement a continuum of social and emotional education programs and services in accordance with students' needs, (405 ILCS 49/15(b), ~~amended by P.A. 98-338~~).

105 ILCS 5/2-3.147, ~~added by P.A. 95-558 and repealed by P.A. 99-302~~, created the Ensuring Success in School Task Force. Supervised by ISBE, this task force developed 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 goal is to encourage these students to stay in school, stay safe while in school, and successfully complete their education. School boards and superintendents may want to create their own study group to prepare for implementing of the task force's policies, procedures, and protocols. A report of the task force's findings was made to the General Assembly and is available here:

<http://povertylaw.org/advocacy/women/pubs/essa-task-force-report>
[povertylaw.org/sites/default/files/webfiles/final-essa-task-force-report-with-appendix%20\(1\).pdf](http://povertylaw.org/sites/default/files/webfiles/final-essa-task-force-report-with-appendix%20(1).pdf).

⁴ The goals, along with their benchmarks, performance descriptors and indicators are available at the link in f/n 3, above:

~~www.isbe.net/files/social-emotional/pdf/SEL_goal1.pdf~~ The specific listing of indicators is listed at: www.isbe.net/learningsupports/html/conditions.htm. The Ill. Children's Mental Health Partnership provides a more visual listing of the SEL Learning Standards in its links to Goals 31, 32 & 33 at: www.icmhp.org/initiatives/SocialandEmotionalStandards.htm

⁵ The objectives are a matter of local school board discretion. A board may replace the sample objectives with its own local objectives. This sample policy lists the ISBE's SEL goals found on ISBE's website cited in f/n 3, above~~suggested core components of a comprehensive social and emotional development policy, available on ISBE's website at: www.isbe.net/spec-ed/pdfs/emh-core-components.pdf~~.

age-and-culturally appropriate classroom instruction, District-wide, and school-wide strategies that teach SEL skills, promote optimal mental health, and prevent risk behaviors for all students.

2. Staff development and training to promote students' SEL development. This may include providing all personnel with age-appropriate academic and SEL and how to promote it. ⁶
3. Parent/Guardian and family involvement to promote students' SEL development. This may include providing parents/guardians and families with learning opportunities related to the importance of their children's optimal SEL development and ways to enhance it. ⁷
4. Community partnerships to promote students' SEL development. This may include establishing partnerships with diverse community agencies and organizations to assure a coordinated approach to addressing children's mental health and SEL development.
5. Early identification and intervention to enhance students' school readiness, academic success, and use of good citizenship skills. This may include development of a system and procedures for periodic and universal screening, assessment, and early intervention for students who have significant risk factors for social, emotional, or mental health conditions that impact learning. ⁸
6. Treatment to prevent or minimize mental health conditions in students. This may include building and strengthening referral and follow-up procedures for providing effective clinical services for students with social, emotional, and mental health conditions that impact learning. This may include student and family support services, school-based behavioral health services, and school-community linked services and supports.
7. Assessment and accountability for teaching SEL skills to all students. This may include implementation of a process to assess and report baseline information and ongoing progress about school climate, students' social and emotional development, and academic performance. ⁹

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⁶ See SEL resources to support instruction of the Ill. Learning Standards at: [trainers for each region in Ill. are listed here:](#)

www.ilclassroomsinaction.org/. www.icmhp.org/initiatives/SELTrainingandSupport.htm.

⁷ The Ill. Children's Mental Health Partnership provides family resources SEL Parent Newsletters at: <http://icmhp.org/icmhp-help-guide/family-resources/> www.icmhp.org/initiatives/SELresources.html.

⁸ The Ill. Children's Mental Health Partnership provides information about Early Childhood Mental Health Consultation at: <http://icmhp.org/icmhp-in-action/projects/early-childhood-mental-health-consultation-project-tier/>. www.icmhp.org/initiatives/earlychildconsult.html

⁹ For information on this objective, see ISBE's Comprehensive System of Learning Supports at: www.isbe.net/Pages/Learning-Supports.aspx www.isbe.net/learningsupports/.

Information about school climate is available from ISBE at: www.isbe.net/Pages/School-Climate.aspx.

LEGAL REF.: Children's Mental Health Act of 2003, 405 ILCS 49/.

CROSS REF.: 1:30, (School District Philosophy), 6:10 (Educational Philosophy and Objectives), 6:40 (Curriculum Development), 6:60 (Curriculum Content), 6:270 (Guidance and Counseling Program), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:250 (Student Support Services)

Instruction

Remote Educational Program ¹

The Superintendent shall develop, maintain, and supervise a remote educational program consistent with ~~105 ILCS 5/Section 10-29 of the School Code~~. The remote educational program shall provide an opportunity for qualifying students to participate in an educational program delivered by the District in a location outside of a school.

The remote educational program shall: ²

1. Align its curriculum with the ~~Illinois~~, ~~State~~ Learning Standards and Board policies 6:10, *Educational Philosophy and Objectives* and 6:15, *School Accountability*.
2. Offer instruction and educational experiences consistent with those given to students at the same grade level in the District through compliance with Board policies 6:30, *Organization of Instruction* and 6:300, *Graduation Requirements*.
3. Provide instructors that meet the teacher qualifications in Board policy 5:190, *Teacher Qualifications*. Instructors are responsible for the following elements of the program: ³
 - a. Planning instruction,
 - b. Diagnosing learning needs,
 - c. Prescribing content delivery through class activities,
 - d. Assessing learning,
 - e. Reporting outcomes to administrators and parents/guardians, and
 - f. Evaluating the effects of instruction.

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¹ This policy is optional, but school boards that wish to implement a remote educational program must adopt a policy with statutorily-prescribed content. 105 ILCS 5/10-29, ~~amended by P.A. 100-1046~~. Before adopting this policy school officials should consider how a remote educational program fits into the district's mission statement for instruction. School officials should consult the board attorney and a representative from ~~the Ill. State Board of Education (ISBE)~~ for advice when implementing this program. A remote educational program will be subject to ISBE rules ~~if and whenever~~ ISBE promulgates and adopts them.

The ~~Illinois~~ Virtual School (~~IVS~~) qualifies as an educational program delivered by the district in a location outside of a school because, as stated on ISBE's website, "[A]ll students enroll in the ~~Illinois Virtual School (IVS)~~ through their regular school. The student's school (public or private) must first agree to participate in IVS." See ~~the IVS website at: www.ilvirtual.org/partner-schools www.ilvirtual.org/schools/index.cfm~~.

Homes or other locations outside of a school building for remote educational programs are not "public school facilities." 105 ILCS 5/10-29(e).

² Item #1 in the following list is a statutory remote educational program requirement. 105 ILCS 5/10-29(a)(2). The ~~Illinois Ill.~~ State Learning Standards may be found at: www.isbe.net/Pages/Learning-Standards.aspx and 23 Ill.Admin.Code §1, App. D. See also, 105 ILCS ~~5/2-3.25d and~~ 5/27-1.

Item #2 in the following list is also a statutory remote educational program requirement. 105 ILCS 5/10-29(a)(2).

³ Statutory remote educational program requirement. 105 ILCS 5/10-29(a)(3). Consult the board attorney for advice because the listed statutory responsibilities for instructors of remote educational programs may impact wages, hours, and terms and conditions of employment. In addition, 105 ILCS 5/10-29(d) requires these responsibilities to be subject to local collective bargaining agreements. When the district has an applicable collective bargaining agreement, replace item # 3 in the policy with the following sentence for those covered employees:

Provide instructors that meet the teacher qualifications in Board policy 5:190, *Teacher Qualifications*. Instructors are responsible for the elements of the program consistent with the applicable collective bargaining agreement.

For employees not covered by a collective bargaining agreement, the law controls and the policy should reflect the board's additional local remote education requirements, if any.

4. Provide a remote educational program anytime during the period of time from and including the opening date to the closing date of the District's regular school term. It may operate on any calendar day, notwithstanding whether it is a student attendance day or institute day on the ~~School~~-District's calendar or any other provision of law restricting instruction on that day. The District's regular school term is established by Board policies 2:20, *Powers and Duties of the School Board; Indemnification*, and 6:20, *School Year Calendar and Day*. The remote educational program may be offered outside of the regular school term as part of any authorized summer school program. 4
5. ~~Calculate the~~ Establish a system to determine student participation number of clock hours a student participates in instruction in alignment with Board policy 6:20, *School Year Calendar and Day*. 5
6. Limit participation to students who are juniors or seniors or demonstrate individual educational need(s). Approval of students in the program will be on a space-available basis. 6
7. Authorize the Superintendent or designee to approve students for participation in the program when the student shows evidence of: 7
 - a. Enrollment in the District pursuant to Board policies 7:60, *Residence* and 7:30, *Student Assignment and Intra-District Transfer*.
 - b. Prior approval from their individualized educational program (IEP) team, if applicable.
 - c. How the remote educational program best serves the student's individual learning needs.

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

4 Statutory remote educational program requirement. 105 ILCS 5/10-29(a)(4) and 5/10-19. Delete the last sentence if the district will not offer the remote educational programs during summer. If the district holds year-round classes in some buildings, it must classify each student's participation in the remote educational program as either on a year-round or a non-year-round schedule for purposes of claiming general State aid evidence-based funding.

5 Statutory remote educational program requirement that must be covered in policy. 105 ILCS 5/10-29(a)(1)(E), amended by P.A. 100-1046. Student participation in the Clock hours of instruction by students in through a remote educational program meeting the requirements of 105 ILCS 5/10-29 may be claimed for evidence-based funding purposes for instruction under 105 ILCS 5/18-8.15 on any calendar day general State aid purposes in accordance with and subject to the limitations of Section 18-8.05 of the School Code. 105 ILCS 5/10-29(ae)(4). Alternatively, a remote educational program may also be used for instruction delivered to a student in the home or other location outside of a school building that is not claimed for general State aid evidence-based funding purposes. 105 ILCS 5/10-29(f), amended by P.A. 100-1046.

6 Must be covered in policy if any limitations on participation are imposed. 105 ILCS 5/10-29(a)(1)(B). This language is a suggestion for limitation on participation. Replace this sentence with the district's specific limitations regarding the number of students or grade levels that may participate in a remote educational program. If a district has no limitations this sentence may be deleted.

7 The introductory phrase must be covered in policy. 105 ILCS 5/10-29(a)(1)(C). If a district has its own description of the process it will use to approve participation in the remote educational program, replace this sentence with the district's language.

7a is a statutory remote educational program requirement. 105 ILCS 5/10-29(a)(6).

7b is a statutory remote educational program requirement that must be covered in policy. 105 ILCS 5/10-29(a)(1)(C). The district must ensure that the student receives all programming and related services required in his or her IEP. 23 Ill.Admin.Code §226.360. The law is silent whether a student who has a plan under Section 504 of the federal Rehabilitation Act of 1973 (504 plan) needs prior approval, but the student's remote educational plan must deliver content in a manner consistent with the student's 504 plan.

7c is a statutory remote educational program requirement that must be covered in policy. 105 ILCS 5/10-29(a)(1)(A). A student and his or her parent/guardian will need to inform the district of how a remote educational program will best serve the student's individual learning needs.

7d must be covered in policy. 105 ILCS 5/10-29(a)(1)(A). It may be customized, but the language must address, at a minimum, consideration of a student's prior attendance, disciplinary record, and academic history. The board may want to require the same minimum GPA standards that it requires for eligibility to participate in interscholastic activities. See also 6:270, *Guidance and Counseling Program*.

- d. A consistent, appropriate attendance record, no disciplinary record, and a 2.5 minimum grade point average.
8. Include a process for developing and approving a written remote educational plan for each student participating in the program. ⁸
9. Require students to complete their participation in the program within 12 months, unless the student's participation is extended by the District. ⁹
10. Require students to participate in all assessments administered by the District pursuant to State and federal law and Board policy 6:340, *Student Testing and Assessment Program*. ¹⁰
11. Align with the requirements of Board policy 7:340, *Student Records*. ¹¹
12. Comply with other State and federal laws and align with all applicable Board policies. This includes the Superintendent submitting a copy of this policy to the Illinois State Board of Education along with any amendments to it and any data on student participation. ¹²
13. Be monitored by the Board pursuant to Board policy 2:240, *Board Policy Development*, and included as a topic for discussion in the annual report required by Board policy 6:10, *Educational Philosophy and Objectives*. It shall include a discussion of the process for renewal of the program when applicable. ¹³

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⁸ Statutory remote educational program requirement that must be covered in policy. 105 ILCS 5/10-29(a)(1)(D). A written remote educational plan must meet the requirements of 105 ILCS 5/10-29(a)(5). It must be approved by the school district and a person authorized to enroll the student under 105 ILCS 5/10-20.12b. Any amendments to a student's written remote educational plan must also be approved in the same manner. See f/n ⁹ and ¹³ for a discussion of the length of a written remote educational plan.

⁹ Statutory remote educational program requirement. 105 ILCS 5/10-29(a)(7). A district may extend participation longer than 12 months when it: (1) evaluates the student's progress in the program, (2) determines that the student's continuation in the program will serve the student's individual learning needs, and (3) amends the student's remote educational plan, addressing any changes for the upcoming term of the program.

¹⁰ Statutory remote educational program requirement. *Id.* at 10-29(a)(6).

¹¹ Remote educational programs present specific student records and privacy issues that should be examined with the board attorney. Both federal (Family Educational Rights and Privacy Act, 20 U.S.C. §1232g) and State (Illinois School Student Records Act, 105 ILCS 10/) laws govern student school records and these laws differ in many respects.

¹² The first sentence is a statutory remote educational program requirement that must be covered in policy. 105 ILCS 5/10-29(a)(1)(G). Consult the board attorney to discuss other issues that may pertain to the district's specific circumstances. The second sentence is a statutory remote educational program requirement. 105 ILCS 5/10-29(g). The law provides no guidance how to accomplish this requirement other than granting ISBE rulemaking authority. 105 ILCS 5/10-29(h).

¹³ Must be covered in policy. 105 ILCS 5/10-29(a)(1)(F). A description of the process for renewing a remote educational program at the expiration of its *term* is required. Dual uses of the word *term* occur in this law. Depending upon the type of remote educational program, *term* suggests the district's entire remote educational program may need renewal from time to time. The Act provides little guidance other than that the district must describe the process in its policy. The annual report required by Board policy 6:10, *Educational Philosophy and Objectives*, is one option to describe the process. Replace this sentence with the district's language if a different process is developed.

105 ILCS 5/10-29(a)(7) also references *term*. There, *term* requires that a student's "written remote educational plan" not extend the student's participation in the remote educational program longer than 12 months, unless the district extends participation. See f/n ⁹ for further discussion.

LEGAL REF.: 105 ILCS 5/10-29.
23 Ill.Admin.Code §226.360.

CROSS REF.: 2:20 (Powers and Duties of the School Board; Indemnification), 2:240 (Board Policy Development), 5:190 (Teacher Qualifications), 6:10 (Educational Philosophy and Objectives), 6:15 (School Accountability), 6:20 (School Year Calendar and Day), 6:30 (Organization of Instruction), 6:300 (Graduation Requirements), 6:340 (Student Testing and Assessment Program), 7:30 (Student Assignment and Intra-District Transfer), 7:60 (Residence), 7:340 (Student Records)

Students

Teen Dating Violence Prohibited ¹

Engaging in teen dating violence that takes place at school, on school property, at school-sponsored activities, or in vehicles used for school-provided transportation is prohibited.² For purposes of this policy, the term *teen dating violence* occurs whenever a student who is 13 to 19 years of age uses or threatens to use physical, mental, or emotional abuse to control an individual in the dating relationship; or uses or threatens to use sexual violence in the dating relationship. ³

The Superintendent or designee shall develop and maintain a program to respond to incidents of teen dating violence that: ⁴

1. Fully implements and enforces each of the following Board policies: ⁵
 - a. 7:20, *Harassment of Students Prohibited*. This policy prohibits any person from harassing, intimidating, or bullying a student based on the student's actual or perceived characteristics of sex; sexual orientation; gender identity; and gender-related identity or expression (this policy includes more protected statuses).
 - b. 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. This policy prohibits students from engaging in bullying, intimidation, and harassment at school, school-related events and electronically. Prohibited conduct includes threats, stalking, physical violence, sexual harassment, sexual violence, theft, public humiliation, destruction of property, or retaliation for asserting or alleging an act of bullying.
2. Encourages anyone with information about incidents of teen dating violence to report them to any of the following individuals: ⁶

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¹ All school boards must have a policy on teen dating violence. (105 ILCS 110/3.10, ~~added by P.A. 98-190~~). This sample policy is designed to align with a district's already-existing procedures for reporting bullying and school violence. See f/n 7. The curriculum components for teen dating violence education, which apply to districts with students enrolled in grades 7 through 12, are listed in ~~administrative procedure 6:60-AP, Comprehensive Health Education Program~~.

² 105 ILCS 110/3.10(b)(1), ~~added by P.A. 98-190~~. School officials must proceed carefully before disciplining a student for out-of-school conduct. A school's authority over off-campus conduct is much more limited than incidents that occur on school grounds. 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 [policy 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.

³ 105 ILCS 110/3.10(a), ~~added by P.A. 98-190~~. For districts that wish to broaden the ages (e.g., perhaps include 11-12 year olds in a middle school setting), delete the following phrase from the first sentence: "who is 13 to 19 years of age". The law defines *dating* or *dating relationship* as an "ongoing social relationship of a romantic or intimate nature between two persons." The terms do not include "a casual relationship or ordinary fraternization between two persons in a business or social context."

⁴ Required by 105 ILCS 110/3.10(b)(3), ~~added by P.A. 98-190~~.

⁵ Be sure the referenced board policies, as adopted locally, contain the language paraphrased in this policy. If not, either substitute similar language from the locally adopted board policies on the same topics, or just insert the titles from relevant locally adopted policies.

The statutory content requirements for a teen dating policy include "establish[ing] procedures for the manner in which employees of a school are to respond to incidents of teen dating violence." This policy fulfills this requirement by incorporating by reference the following administrative procedure: 7:180-AP1, *Prevention, Identification, Investigation, and Response to Bullying*. This means that 7:180-AP1 should be considered to be part of this policy.

- a. Any school staff member. School staff shall respond to incidents of teen dating violence by following the District's established procedures for the prevention, identification, investigation, and response to bullying and school violence. ⁷
 - b. The Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager identified in policy 7:20, *Harassment of Students Prohibited*. ⁸
3. Incorporates age-appropriate instruction in grades 7 through 12, in accordance with the District's comprehensive health education program in Board policy 6:60, *Curriculum Content*. This includes incorporating student social and emotional development into the District's educational program as required by State law and in alignment with Board policy 6:65, *Student Social and Emotional Development*. ⁹
 4. Incorporates education for school staff, as recommended by the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager. ¹⁰
 5. Notifies students and parents/guardians of this policy. ¹¹

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⁶ 105 ILCS 110/3.10(b)(4), added by P.A. 98-190, requires the policy to identify by job title which school officials are responsible for receiving reports related to teen dating violence.

⁷ *Id.* at f/ns 5 & 6. Sexual violence is one listed component of teen dating violence. (105 ILCS 110/3.10-(a), added by P.A. 98-190). Sexual violence has also been found by the Ill. Gen. Assembly to be a component of bullying and school violence. (105 ILCS 5/27-23.7). Thus, identifying any school staff member is consistent with 7:180-AP1, *Prevention, Identification, Investigation, and Response to Bullying*, which uses the student-friendly reporting system outlined in 7:180-AP1, E2, *Be a Hero by Reporting Bullying*.

⁸ *Id.* Under any reporting system, a report involving bullying and school violence that is based upon a protected status (often teen dating violence will involve conduct based upon the target's sex) must be referred to the district's Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, or a Complaint Manager (7:20, *Harassment of Students Prohibited*). Customize this list to reflect local conditions. These individuals may also take reports directly from students.

⁹ Required by 105 ILCS 110/3.10(b)(2). The curriculum-specific components for teen dating violence education are listed in administrative procedure 6:60-AP, *Comprehensive Health Education Program*.

¹⁰ *Id.* For boards that add the optional paragraphs in policy 5:100, *Staff Development Program*, add the phrase "and policy 5:100, *Staff Development Program*."

¹¹ Required by 105 ILCS 110/3.10(b)(5). Boards must communicate this policy to students and their parents/guardians. This may be accomplished, in part, by (1) sending 7:185-E, *Memo to Parents/Guardians Regarding Teen Dating Violence*, and (2) amending the district's anti-bullying campaign statement(s), such as the following, in the student handbook and school website:

Bullying, teen dating violence, intimidation, and harassment are not acceptable in any form and will not be tolerated at school or any school-related activity. The School District will take disciplinary action against any student who participates in such conduct or who retaliates against someone for reporting incidents of bullying, teen dating violence, intimidation, or harassment.

Incorporated
by Reference: 7:180-API, (Prevention, Identification, Investigation, and Response to Bullying)

LEGAL REF.: 105 ILCS 110/3.10.

CROSS REF.: 2:240 (Board Policy Development), 5:100 (Staff Development Program), 5:230 (Maintaining Student Discipline), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:190 (Student Behavior), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities)

Community Relations

Parental Involvement 1

In order to assure collaborative relationships between students' families and the District, and to enable parents/guardians to become active partners in their children's education, the Superintendent² shall:

1. Keep parents/guardians thoroughly informed about their child's school and education.
2. Encourage parents/guardians to be involved in their child's school and education.
3. Establish effective two-way communication between parents/guardians and the District.
4. Seek input from parents/guardians on significant school-related issues.
5. Inform parents/guardians on how they can assist their children's learning.

The Superintendent shall periodically report to the School Board on the implementation of this policy.

CROSS REF.: 6:170 (Title I Programs), 6:250 (Community Resource Persons and Volunteers), 8:10 (Connection with the Community), 8:90 (Parent Organizations and Booster Clubs)

ADMIN. PROC.: 6:170-~~API~~, E1 (District-Level Parent and Family Engagement Compact), 6:170-~~API~~, E2 (School-Level Parent and Family Engagement Compact)

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¹ A board may allow the district to participate and implement a *Bring Your Parents to School Day* the first Monday in October of each year. ~~(105 ILCS 5/10-20.55, added by P.A. 98-304)~~. Its purpose is to promote parental involvement and student success. Consult the board attorney for advice before implementing this law. It may be an item upon 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. Boards may also want to consider the impact *Bring Your Parents to School Day* may have upon students' instructional time how the implementation of this day will impact school safety and security. See policy 4:170, *Safety* and its implementing procedures.

If a board chooses to implement this day, insert the following optional subhead as the second paragraph and add the Legal Reference before the Cross Reference may be inserted:

Bring Your Parents to School Day

On the first Monday in October of each year, students' parents/guardians are invited to attend class with their children and meet with teachers and administrators during the school day.

The following Legal Reference must also be inserted into the policy: "105 ILCS 5/10-20.55."

² The default text of this policy does not use "or designee" because it is important and the board likely wants to monitor it.

