

**FIRST READING OF
BOARD POLICIES PRESS
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School Board

Qualifications, Term, and Duties of Board Officers 1

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

President 3

The Board elects a President from its members for a ~~2~~^{two}-year term. The duties of the President are to:

1. ~~Focus the Board meeting agendas on appropriate content and p~~Preside at all meetings;
2. ~~Focus the Board meeting agendas on appropriate content;~~
- ~~2.3.~~ 3. Make all Board committee appointments, unless specifically stated otherwise; 4
- ~~3.4.~~ 4. Attend and observe any Board committee meeting at his or her discretion; 5
- ~~4.5.~~ 5. Represent the Board on other boards or agencies;
- ~~5.6.~~ 6. Sign official District documents requiring the President's signature, including Board minutes and Certificate of Tax Levy;
- ~~6.7.~~ 7. Call special meetings of the Board;
- ~~7.8.~~ 8. Serve as the head of the public body for purposes of the Open Meetings Act and Freedom of Information Act; 6
- ~~8.9.~~ 9. Ensure that a quorum of the Board is physically present at all Board meetings; 7
- ~~9.10.~~ 10. Administer the oath of office to new Board members; and 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. Selection of officers must be in open session. (5 ILCS 120/2). Board officer vacancies are discussed in *Answers to FAQs: Vacancies on the Board of Education*, Ill. Council of School Attorneys, www.iasb.com/law/vacancies.cfm.

2 Districts governed by a board of directors have ~~3~~^{three} officers: a president, clerk, and treasurer. The president and clerk must be board members (105 ILCS 5/10-5).

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

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

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

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

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

7 Optional. Requiring the president to monitor the presence of a quorum assists compliance with ~~the Open Meetings Act's~~ mandate that a quorum be physically present at all board meetings. (5 ILCS 120/7).

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

10.11. Serve as the Board's official spokesperson to the media.

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

The Vice President fills a vacancy in the Presidency. ⁹

Vice President 10

The Board elects a Vice President from its members for a ~~2~~two-year term. The Vice President performs the duties of the President if:

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

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

Secretary 11

The Board elects a Secretary for a ~~2~~two-year term. The ~~S~~ecretary may be, but is not required to be, a Board member. The Secretary may receive reasonable compensation as determined by the Board before appointment. However, if the ~~S~~ecretary is a Board member, the compensation shall not exceed \$500 per year, as fixed by the Board at least 180 days before the beginning of the term.¹² The duties of the Secretary are to:

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

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

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

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

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

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" in item #4 with "appropriate Intermediate Service Center." ~~P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.~~

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

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

Recording Secretary 13

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

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

In addition, the Recording Secretary or Superintendent receives notification from Board members who desire to attend a Board meeting by video or audio means. [14](#)

Treasurer 15

The Treasurer of the Board shall be either a member of the Board who serves a ~~one~~-year term or a non-Board member who serves at the Board's pleasure. ~~16~~ A Treasurer who is a Board member may not be compensated. ~~17~~ A Treasurer who is not a Board member may be compensated provided it is established before the appointment. ~~18~~ The Treasurer must: ¹⁹

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

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¹³ This section is optional.

¹⁴ [To allow attendance by video or audio means, a board must adopt policy language conforming to the restrictions in OMA, 5 ILCS 120/2.01 and 120/7. See subhead Quorum and Participation by Audio or Video Means in policy 2:220, School Board Meeting Procedure.](#)

¹⁵ This section is for: (1) districts in a Class I, or (2) a Class II county (Cook Co.) district that has withdrawn from the authority of the township treasurer or is located in a township in which the office of township treasurer was abolished. 105 ILCS 5/5-1 defines Class I county school units as districts in counties with less than 2,000,000 inhabitants. Those districts in Cook County (Class II county) under the authority of the trustees of schools of the township and the township treasurers should use this alternative: "Qualifications, appointment, and duties of the Treasurer for the School District shall be as provided in the School Code." See 105 ILCS 5/8-1(a) for how the township treasurer is appointed and the term of office; duties are found in 105 ILCS 5/8-2, 5/8-6, 5/8-16, and 5/8-17.

¹⁶ 105 ILCS 5/8-1(b). The treasurer's term of office is ~~2~~-two years if the district is located in a Class II county (Cook Co.) that was under the jurisdiction and authority of the township treasurer and township trustees of schools at the time those offices were abolished. ¹⁷ 105 ILCS 5/8-1(c). Those boards should use the following alternative:

The Treasurer of the Board shall serve a ~~2~~-two-year term beginning and ending on the first day of July.

¹⁷ 105 ILCS 5/8-1(b) and (c).

¹⁸ 105 ILCS 5/8-3.

¹⁹ Qualification #1 is required for treasurers in a Class I county or Class II county (Cook Co.) that withdrew from the authority of the township treasurer and township trustees of schools. ¹ 105 ILCS 5/8-1(b). This sample policy makes it applicable to Class II county (Cook Co.) districts that were under the authority of the township treasurer and township trustees of schools at the time those offices were abolished.

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

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

The Treasurer shall: 20

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

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

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

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

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20 105 ILCS 5/8-2, 5/8-6, and 5/8-16.

School Board

Communications To and From the Board ¹

The School Board welcomes communications from staff members, parents/guardians, students, and community members. Individuals may submit questions or communications for the School Board's consideration to the Superintendent or may use the electronic link to the Board's email address(es) ~~that is posted on the District's website.~~² ~~In accordance with the Open Meetings Act and the Oath of Office taken by Board members, individual Board members will not (a) reply to an email on behalf of the entire Board, or (b) engage in the discussion of District business with a majority of a Board quorum.~~³

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¹ State law controls portions of this policy but does not require a policy on any topic covered.

An alternative to the opening sentence follows: "The School Board welcomes communications from the school community."

² School districts that maintain an Internet website, other than a social media or social networking website, must post a "mechanism, such as a uniform single email address, for members of the public to electronically communicate with elected officials," (50 ILCS 205/20, added by P.A. 98-930, eff. 1-1-2015). ~~This must be done within 90 days of 1-1-2015.~~ The sample policy's default language may be used even when the district provides each board member with an individual e-mail address. The language permits every board member to read all emails sent to the electronic linkboard or its members. This aligns with IASB's Foundational Principles of Effective promotes good Governance because all members receive ~~are provided~~ the same information and communications as illustrated below:

- When the district provides individual email addresses to board members, it can post a hyperlink on the district home page to an email address that will forward the communication to all ~~seven~~⁷ board members' email addresses simultaneously.
- When the district does **not** provide individual email addresses to board members, it can post a hyperlink on the district's home page to one email address that every board member may access.

Other ways to comply should ensure that be avoided unless they allow all board members to have equal access to communications. For example, posting a hyperlink on the district home page to a list of individual board member email addresses would~~not~~ ensure that all board members have equal access to emails/questions or communications for the board's consideration.

Whenever a district provides email addresses to individual board members, all emails sent to individual email addresses are subject to disclosure under the Freedom of Information Act (FOIA). *City of Champaign v. Madigan*, 992 N.E.2d 629 (Ill.App.4th, 2013). 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. See PAO 16-6. Consult the board attorney when searching board members' personal email addresses and/or devices may be necessary to respond to a FOIA request.

If the district does not maintain an Internet website, delete all text in the first paragraph after the word *Superintendent* and delete the entire second and third paragraphs, i.e.:

~~or may use the electronic link to the Board's email address(es) posted on the District's website. In accordance with the Open Meetings Act and the Oath of Office taken by Board members, individual Board members will not (a) reply to an email on behalf of the entire Board, or (b) engage in the discussion of District business with a majority of a Board quorum.~~

~~The Superintendent or designee shall:~~

- ~~1. Ensure that the home page for the District's website contains an active electronic link to the email address(es) for the School Board, and~~
- ~~2. Provide the Board, such as in the Board meeting packet, with all emails that are received and any feedback regarding them. During the Board's regular meetings, report for the Board's consideration all questions or communications submitted through the active electronic link along with the status of the District's response in the Board meeting packet.~~

In accordance with the Open Meetings Act and the Oath of Office taken by Board members, individual Board members will not (a) reply to an email on behalf of the entire Board, or (b) engage in the discussion of District business with a majority of a Board quorum.

The Superintendent or designee shall: ⁴

1. Ensure that the home page for the District's website contains an active electronic link to the email address(es) for the School Board, and
2. During the Board's regular meetings, report for the Board's consideration all questions or communications submitted through the active electronic link along with the status of the District's response.~~Provide the Board, such as in the Board meeting packet, with all emails that are received and any feedback regarding them.~~

If contacted individually, Board members will refer the person to the appropriate level of authority, except in unusual situations. Board members' questions or communications to staff or about programs will be channeled through the Superintendent's office. Board members will not take individual action that might compromise the Board or District. There is no expectation of privacy for any communication sent to the Board or its members, whether sent by letter, email, or other means.

Board Member Use of Electronic Communications ⁵

For purposes of this section, *electronic communications* includes, without limitation, electronic mail, electronic chat, instant messaging, texting, and any form of social networking.—⁶ Electronic communications among a majority or more of a Board-quorum shall not be used for the purpose of discussing District business. Electronic communications among Board members shall be limited to: ⁷

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⁴ Directive #1 to the superintendent restates the statutory requirement to post a hyperlink to the email address on the district's home page. 50 ILCS 205/20. Directive #2 is optional; ~~and it~~ adds a step to increase efficient responses to communications concerning the operation or management of the district or a school. Adding this text allows a board to (1) monitor its compliance with 50 ILCS 205/20, (2) ensure that all board members stay informed of all questions and communications to the board, (3) align with IASB's Foundational Principles of Effective Governance, and (4) mirror a School Code requirement (105 ILCS 5/10-16) for the superintendent to report any FOIA requests during the board's regular meetings along with the status of the district's response.

Before adoption of this text, each board may want to have a conversation with the superintendent about the difference between "staff work questions or communications" that do not need to be submitted to the board and "questions or communications submitted for the school board's consideration" that do need to be submitted to the board.

For districts that maintain an Internet website but do not wish to adopt Directive #2, delete Directive #2 and amend the policy as follows:

The Superintendent or designee shall:

1.—Ensure that the home page for the District's website contains an active electronic link to the email address(es) for the School Board, and

A public body is not required to reply to communications. Likewise, the ~~FOIA Freedom of Information Act~~ does not require questions to be answered. Chicago Tribune Co. v. Dept. of Financial & Professional Reg., 8 N.E.3d 11 (Ill.App. 4th, 2014). For more information about districts governed by a board of school directors, see ¶n 6 of policy 2:220, School Board Meeting Procedure.

⁵ With some exceptions, ~~the Open Meetings Act~~ requires that a board conduct its deliberations and business during meetings that the public may attend. A meeting means "any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business." 5 ILCS 120/1.02. Thus, any *electronic communication* discussing district business that circulates among a majority of a quorum of the board may qualify as a meeting for purposes of the ~~Open Meetings Act~~ and may be illegal. A violation of ~~the Open Meetings Act~~ is a Class C misdemeanor. (5 ILCS 120/4).

The Local Records Act, (50 ILCS 205/), governs retention of district records; its definition of *public record* is more narrow than the definition in ~~the FOIA 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. While this is a slippery slope without definitive parameters, electronic communication among board members that are permissible under this policy may generally be deleted; consult the board attorney for a more thorough analysis and a legal opinion.

⁶ The examples of *electronic communications* are optional and may be amended.

⁷ Complying with these restrictions will help avoid an ~~Open Meetings Act~~ violation.

(1) disseminating information, and (2) messages not involving deliberation, debate, or decision-making. The following list contains examples of permissible electronic communications:

- Agenda item suggestions
- Reminders regarding meeting times, dates, and places
- Board meeting agendas or information concerning agenda items
- Individual emails to community members, subject to the other limitations in this policy

In accordance with the Open Meetings Act and the Oath of Office taken by Board members, individual Board members will not (a) reply to an email on behalf of the entire Board, or (b) engage in the discussion of District business through electronic communications with a majority of a Board-quorum. ⁸

LEGAL REF.: 5 ILCS 120/, [Open Meetings Act](#).
50 ILCS 205/20, [Local Records Act](#).

CROSS REF.: 2:220 (School Board Meeting Procedure), 3:30 (Chain of Command), 8:110 (Public Suggestions and Concerns)

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⁸ The oath of office in 105 ILCS 5/10-16.5, [amended by P.A. 100-1055](#), requires board members to swear or affirm that they “shall recognize that a board member has no legal authority as an individual and that decisions can only be made by a majority vote at a public board meeting.” Deliberations of the board must be conducted openly; a meeting occurs whenever a majority of a quorum discusses public business; meetings must occur at a properly noticed board meeting that is open to the public. 5 ILCS 120/1, 1.02, and 2. For additional information, see f/ns [belowabove](#) and 2:140-E, *Guidance for Board Member Communications, Including Email Use*.

School Board

Public Participation at School Board Meetings and Petitions to the Board ¹

For an overall minimum of 30 minutes² during~~At~~ each regular and special open meeting, any person~~members of the public and District employees~~ may comment to or ask questions of the School Board (public participation), subject to the reasonable constraints established and recorded in this policy's guidelines below.³ During public participation, there will be a 20-minute⁴ minimum total length of time for any one subject. When public participation takes less time than these minimums, it shall end.

To preserve sufficient time for the Board to conduct its business, any person~~he individuals~~ appearing before the Board is~~are~~ expected to follow these guidelines: ⁵

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¹ ~~The Open Meetings Act (OMA) and the School Code grant any person the right to address a school board during any open meeting (5 ILCS 120/2.06; 105 ILCS 5/10-6 (board of directors) and 5/10-16 (board of education). OMA requires public bodies to have rules (a policy) on public participation. Public comment is synonymous with public participation. They are used interchangeably in the footnotes below. 5 ILCS 120/(fd).~~

² ~~The Open Meetings Act (OMA) and the School Code grant any person the right to address a school board during any open meeting. See (5 ILCS 120/2.06; and 105 ILCS 5/10-6 (board of directors), and 5/10-16 (board of education), and PAO 19-2. See f/n 4, 5, and 6 below for more detailed discussions.~~

~~The length of this sample policy's minimum overall public participation time is at the local board's discretion. Ensure the length of time here and in #3.b. match. Customize this policy to ensure it is responsive to the community's public participation needs.~~

³ ~~This sentence combines 105 ILCS 5/10-16 and 5 ILCS 120/2.06(g). Prohibiting public comment and/or restricting public comment to written filings violates the mandates and overarching purpose of the OMA. (Roxana CUSD No. 1 v. EPA, 998 N.E.2d 961 (Ill.App.4th, 2013).~~

~~While some courts have upheld public bodies limiting public comment to certain subjects, such as only subjects on the agenda or only related to the business of the public body, this sample policy does not provide default sample text for limiting public comment to certain subjects. This is because 105 ILCS 5/10-16 requires school boards to allow members of the public "to comment to or ask questions of the board." The cases in which courts upheld limiting public comment to certain subjects involved public bodies with no governing statutes that required the public body to allow the public "to comment to or ask questions of the board."~~

⁴ ~~See 5 ILCS 120/2.06, 105 ILCS 5/10-16, and PAO 19-2. Like the length of time for overall public participation discussed in f/n 2 above, the length of this sample policy's 20-minute minimum total length of time for any one subject is also at the local board's discretion. Customize this policy to ensure it is responsive to the community's public participation needs. Ensure the length of time here and in #3.b. match. Because the time limit for public participation in this sample policy is set at five minutes, a multiple of five minutes is chosen for ease of tracking. See also the discussion in f/n 5 and 6 below.~~

⁵ ~~OMA~~~~State law~~ does not ~~but~~ PAO 19-2 does provide specific rules, ~~and~~ ~~These~~ guidelines may be amended. The guidelines for public comment and the time minimums and limits should be reviewed with the board attorney. Restrictions on public comment during board meetings must respect free speech rights guaranteed by the First Amendment. Do not use viewpoint-based restrictions on public comment time unless approved by the board attorney. Many decisions address the tension between free speech and rules for public comment during meetings. See, for example:

Mnyofu v. Rich Tp. High School Dist., 2007 WL 1308523 (N.D.Ill., 2007)(school boards may impose guidelines for running meetings to maintain effectiveness).

PAO 19-2 (the Ill. Public Access Counselor (PAC) ordered a board to refrain from applying unestablished and unrecorded rules to restrict public comment at future meetings stating, "Though a public body has inherent authority to conduct its meetings in an efficient manner and need not allow public comment to continue indefinitely, there was no evidence that capping public comment to 15 minutes was necessary to maintain decorum or that extending the comment period would have unduly interfered with the orderly transaction of public business.")

Lowery v. Jefferson Co. Bd of Educ., 586 F.3d 427 (6th Cir., 2009)(upheld a rule prohibiting speakers from being frivolous, repetitive, or harassing).

1. Address the Board only at the appropriate time as indicated on the agenda and when recognized by the Board President.
2. Identify oneself and be brief. Ordinarily, the time for any one person to address the Board during public participation comments shall be limited to five minutes.⁶ In unusual circumstances, and when an individual has made a request in advance to speak for a longer period of time, the person/individual may be allowed to speak for more than five minutes.
3. Observe the Board President's decision, when necessary and appropriate, to the:
 - a. Shortening of the time for each person to address the Board during public participation comment to conserve time and give the maximum number of people/individuals an opportunity to speak;
 - b. Expansion of the overall minimum of 30 minutes for public participation and/or the 20-minute minimum total length of time for any one subject; and/or
 - c. 4. Observe the Board President's decision to determine of procedural matters regarding public participation not otherwise covered in Board policy.
4. 5. Conduct oneself with respect and civility toward others and otherwise abide by Board policy; 8:30, Visitors to and Conduct on School Property. ⁷

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Steinburg v. Chesterfield County Planning Commission, 527 F.3d 377 (4th Cir., 2008), *cert. denied* (upheld removal of a man from a public meeting for behaving in a hostile manner).

Norse v. City of Santa Cruz, 629 F.3d 966 586 F.3d 697 (9th Cir. 2010)(remanded a decision upholding a community member's removal from city council meeting after community member gave a Nazi salute in presiding officer's direction, which is considered as classic viewpoint discrimination for which city council members were not entitled to qualified immunity).

Fairchild v. Liberty Indep. School Dist., 597 F.3d 747 (5th Cir., 2010)(upheld a policy banning discussion of personnel matters during public comment; the rationale turned, at least in part, on the Texas open meetings law).

Bach v. School Board of the City of Virginia Beach, 139 F.Supp.2d 738 (E.D.Va., 2001)(struck down a rule that prohibited personal attacks during public comments at meetings).

⁶ Time limits for any one person to address the Board during public participation may be adjusted up or down. This sample uses five minutes because it is a frequently-used time limit. See I.A. Rana Enterprises, Inc. v. City of Aurora, 630 F.Supp.2d 912 (N.D. Ill. 2009) (finding a three-minute time limit reasonable citing Wright v. Anthony, 733 F.2d 575, 577 (8th Cir. 1984) which upheld a five-minute time limit for individual public comments and holding time limits serve "a significant governmental interest in conserving time and in ensuring that others ha[ve] an opportunity to speak"). Note that the Ill. Municipal Code, which applied to the City of Aurora in I.A. Rana Enterprises, Inc., did not have the same requirements as the School Code to allow members of the public to "comment to or ask questions of the board." I.A. Rana Enterprises, Inc. also predated the 2011 amendments to OMA allowing "[a]ny person an opportunity to address public officials under the rules established and recorded by the public body."

Based upon I.A. Rana Enterprises, Inc., many attorneys agree that time limits should be a minimum of three minutes per person, but some public bodies have successfully implemented two minutes per person. Consult the board attorney before setting time limits below three minutes.

⁷ See Nuding v. Cerro Gordo Community Unit School Dist., 730 N.E.2d 96 (Ill.App. 4, 2000) 313 Ill. App.3d 344 (4th Dist. 2000)(board was authorized to ban parent from attending all school events and extracurricular activities by 105 ILCS 5/24-24; the ban was based on the parent's exposing a toy gun and a pocketknife at a board meeting).

Initiating lawsuits against citizens over their uncivil public comments is tricky. Always consult the board attorney, and in some instances, a board member may need to consult his or her own private attorney. The Ill. Citizen Participation Act (CPA) (735 ILCS 110/15) provides citizens a mechanism to stop lawsuits brought against them for their public comments. The law, referred to as "anti-SLAPP legislation," prohibits public officials from suing citizens for "any act or acts in furtherance of [their] rights of petition, speech, association, or to otherwise participate in government." SLAPP means "Strategic Lawsuits Against Public Participation."

The CPA does not bar public officials from seeking relief when they can allege that (a) the citizen's comments were "not genuinely aimed at procuring favorable government action, result, or outcome," and/or (b) the citizen engaged in defamation or another intentional tort causing the public official damage. See (Sandholm v. Kuecker, 962 N.E.2d 418 (Ill., 2012).

Petitions or written correspondence to the Board shall be presented to the Board in the next regular Board packet. ⁸

LEGAL REF.: 5 ILCS 120/2.06, Open Meetings Act.
105 ILCS 5/10-6 and 5/10-16.

CROSS REF.: 2:220 (School Board Meeting Procedure), 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.

⁸ A board of directors must reply to a written request for consideration of a matter within 60 days from the board's receipt of the request. (105 ILCS 5/10-6). Boards of education may treat petitions or correspondence according to a uniform, locally developed process.

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School Board

Board Policy Development 1

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

Policy Development

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

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

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

Policy Adoption and Dissemination

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

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

¹ State law requires this subject matter be covered by policy. See 105 ILCS 5/10-20.5 and 5/10-16.7).

105 ILCS 5/10-16.7 requires the board to make all employment decisions pertaining to the superintendent as well as “to direct, through policy, the superintendent in his or her charge of the administration of the school district, including, without limitation, considering the recommendations of the superintendent concerning the budget, building plans, the locations of sites, the selection, retention, and dismissal of employees, and the selection of textbooks, instructional material, and courses of study.” Rather than being a laundry list of mandated written board policies, this list provides items on which boards must make decisions after considering the superintendent’s recommendations. The statute also requires the “board [to] evaluate the superintendent in his or her administration of board policies and his or her stewardship of the assets of the district.” Boards have broad incidental powers to adopt all necessary policies. *Thomas v. Board of Education of Community Unit School Dist. 1*, 117 Ill.App.3d 374453 N.E.2d 150 (Ill.App. 5th Dist. 1983).

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

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

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

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

Board Policy Review and Monitoring

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

Superintendent Implementation

The Board will support any reasonable interpretation of Board policy made by the Superintendent.—⁷ If reasonable minds differ, the Board will review the applicable policy and consider the need for further clarification.

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

Suspension of Policies

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

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

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

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

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

⁶ Optional.

⁷ The board delegates authority to the superintendent through written board policy. The board will not substitute its judgment for that of the superintendent when the superintendent acts reasonably ~~and in good faith~~ based upon his or her policy interpretation. See the IASB's *Foundational Principles of Effective Governance*, available on-line at: www.iasb.com/pdf/found_prin.pdf.

General School Administration

Goals and Objectives ¹

The Superintendent directs the administration in the management of the School District and to facilitate the implementation of a quality educational program in alignment with School Board policy 1:30, *School District Philosophy*. Specific goals and objectives are to:

1. Provide educational expertise.
2. Plan, organize, implement, and evaluate educational programs that will provide for students' mastery of the Illinois Learning Standards. ²
3. Meet or exceed student performance and academic improvement goals established by the Board. ³
4. Develop and maintain channels for communication between the school and community.
5. Develop an administrative procedures manual and handbooks for personnel and students that are in alignment with Board policy. ⁴
6. Manage the District's fiscal and business activities to ensure financial health, cost-effectiveness, and protection of the District's assets.
7. Provide for the proper use, reasonable care, and appropriate maintenance of the District's real and personal property, including buildings, equipment, and supplies.

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

¹ This policy provides an opportunity for a board to give the superintendent a big picture of its vision for the district by identifying some high-level goals. While ~~sample~~ policy 1:30, *School District Philosophy*, contains the district's mission statement, (i.e., why the district exists), this policy contains progress expectations and desired results, (i.e., goals). This policy is designed to contain goals for which the administration will be responsible, including goals concerning finances, instruction, property, connecting with the community, etc. The list of goals should be replaced with the board's goals and objectives for school administration, if any.

This policy is in alignment with State law. The superintendent and principal's general duties are listed in 105 ILCS 5/10-21.4 and 5/10-21.4a, respectively. See also 105 ILCS 5/10-16.7.

² See the State Goals for Learning, 23 Ill.Admin.Code §1, Appendix D, ~~amended at~~ 43 Ill.Reg. 3799.

³ School administrators may be employed under a multi-year contract only if it is performance-based and contains goals and indicators of student performance and academic improvement, (105 ILCS 5/10-23.8 and 5/20-23.8a). Principal evaluations must use data and indicators on student growth as a significant factor, (105 ILCS 5/24A-15(c)). Thus, a policy statement that administrative staff shall "meet or exceed student performance and academic improvement goals" is consistent with legal requirements.

⁴ Staff and student handbooks provide a means to distribute important information and are referenced in many sample policies and procedures. Members of the Ill. Principals Assoc. may subscribe to ~~the IPA's~~ Model Student Handbook Service. While this service is not a handbook *per se*, it provides principals with quick, user-friendly access to model student handbook provisions that are attorney drafted and fully aligned with IASB's policy services. For more information, see: www.ilprincipals.org/resources/model-student-handbook.

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

CROSS REF.: 1:30 (School District Philosophy), 2:20 (Powers and Duties of the School Board; Indemnification), 2:130 (Board Superintendent Relationship), 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 3:60 (Administrative Responsibility of the Building Principal), 6:10 (Educational Philosophy and Objectives)

General School Administration

Administrative Responsibility of the Building Principal ¹

Duties and Authority

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

Evaluation Plan

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

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

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

² Required by 105 ILCS 5/10-21.4a.

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

The principal's duties are generally described in 105 ILCS 5/10-21.4a and 5/24A-15(c-5). However, many other statutes impose additional duties, e.g., 105 ILCS 127/2 (requires principals to report to the police ~~any~~certain violations of the Cannabis Control Act, Controlled Substance Act, and Methamphetamine Control and Community Protection Act occurring at specified locations); 105 ILCS 5/10-27.1A(b)~~20-44~~ (requires the principal or designee to immediately notify local law enforcement upon receiving a report of a person in possession of a firearm on school grounds, and, if that person is a student, to notify a student's parent/guardian-reciprocal-reporting-of-criminal-offenses-committed-by-students); and 730 ILCS 152/ and 154/ (requires notification to parents/guardians that information about sex offenders and violent offenders against youth is available). The county clerk may appoint high school principals or their designees as deputy registrars to accept voter registrations of ~~eligible students~~any qualified resident of the State. (10 ILCS 5/4-6.2(a), amended by P.A. 100-1027). The Firearm Concealed Carry Act requires a principal to notify the Ill. Dept. of State Police whenever he or she determines that a student (or any person) poses a "clear and present danger to himself, herself or to others." (430 ILCS 66/105; 405 ILCS 5/6-103.3, amended by P.A. 98-63). Lawyers disagree whether this requirement violates the federal Family Educational Rights and Privacy Act.- Contact the board attorney for advice.

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

105 ILCS 5/24A-5 permits a first-year principal to evaluate a teacher; however, a new ~~two~~two-year evaluation plan must be established for any tenured teacher who is evaluated by a first-year principal. (105 ILCS 5/24A-5, amended by P.A. 98-470).

Anyone who has not previously been a principal in Ill. must participate in ISBE's *new principal mentoring program*; however, implementation of a principal mentoring program in any given year is dependent upon an appropriation. (105 ILCS 5/2-3.53a; 23 Ill.Admin.Code Part 35). Annually by June 1, each superintendent must report to the State Superintendent or designee the expected number of ~~1st~~first-year and ~~2nd~~second-year principals along with information specified in 23 Ill.Admin.Code §35.20.

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

Qualifications and Other Terms and Conditions of Employment

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

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

CROSS REF.: 3:50 (Administrative Personnel Other Than the Superintendent), 5:250 (Leaves of Absence)

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

⁵ Each district must implement a performance evaluation plan for its principals and assistant principals. (105 ILCS 5/24A-15, 23 Ill.Admin.Code §50.300). A board may substitute this alternative for the first sentence: "The Superintendent or designee shall implement a principal and assistant principal evaluation plan that complies with State law." The statutory deadline for evaluating principals and assistant principals depends on whether the individual's employment contract is for one year or multiple years: (1) the evaluation of individuals on a single-year contract must take place annually by March 1, and (2) the evaluation of individuals on a multi-year contract must take place by March 1 of the contract's final year. (105 ILCS 5/24A-15). Individual contracts may require an earlier deadline.

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

Operational Services

Fund Balances ¹

The Superintendent or designee shall maintain fund balances adequate to ensure the District's ability to maintain levels of service and pay its obligations in a prompt manner in spite of unforeseen events or unexpected expenses. The Superintendent or designee shall inform the Board whenever it should discuss drawing upon its reserves or borrowing money.

The School District seeks to maintain a year-end fund balance to revenue ratio of no less than the range of 15-20 percent, as calculated under the Ill. State Board of Education's School District Financial Profile of the annual expenditures in each fund. ²

CROSS REF.: 4:10 (Fiscal and Business Management), 4:80 (Accounting and Audits)

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

¹ This optional policy is at the local board's discretion. Its intent is to help the board monitor the district's financial health and allows a board to clarify its expectations for maintaining fund balances. A board must modify the policy to reflect realistic targets after considering important financial and operational issues, such as current financial practices, long term projects, standards of fiscal health, and the current budget. A board facing a doubting and demanding employee union may want to obtain an objective opinion from an outside auditor before adopting this policy.

² ~~Optional. Pursuant to its authority under 105 ILCS 5/1A-8, the Ill. State Board of Education (ISBE) developed the School District Financial Profile to help monitor the finances of school districts and identify those districts moving toward financial difficulty. A district's total profile score (and corresponding profile designation) is based on four weighted indicators: (1) fund balance to revenue ratio (35%), (2) Expenditure to Revenue Ratio (35%), (3) days cash on hand (10%), and (4) percent of short-term and long-term borrowing ability remaining (10% each). See www.isbe.net/Documents/OEPP-PCTC-Profile.pdf for a detailed explanation of the calculation of the School District Financial Profile and designations. This policy addresses the first factor in a district's Financial Profile, which, according to ISBE, "reflects the overall financial strength of the district." A target of 25% or higher for a district's fund balance to revenue ratio would result in a school district being in the lowest risk category for this factor of the district's Financial Profile, receiving the highest category of financial recognition from ISBE.~~ The following alternative is for a district with fund balances deemed not currently adequate:

The School District will seek to establish year-end fund balances representing _____ percent of the annual expenditures-revenues for each operating fund by budgeting a surplus in each fund.

~~Operating fund refers to the Educational, Operations and Maintenance, Transportation, and Working Cash Funds. See www.isbe.net/Documents/OEPP-PCTC-Profile.pdf. The board should ask the administration to prepare a multi-year cash flow projection to validate the sufficiency of the target figure. This figure is one of two components used to compile the ISBE School District Financial Profile, which includes a category called "Days Cash on Hand," among others. For more information, see www.isbe.net/Documents/profile.pdf and www.isbe.net/Pages/School-District-Financial-Profile.aspx.~~

Note: If the board maintains a fund balance at the start of a fiscal year that is two or more times the average expenditures of that fund (~~over-based on~~ the past three fiscal years), it may face a tax rate objection based on excess accumulation of funds. See e.g., Central Ill. Public Service Co. v. Miller, 42 Ill.2d 542 (1969); Allegis Realty Investors v. Novak, 379 Ill.App.3d 636 (2nd Dist. 2008). Whether such an objection has merit depends on a number of factors, including the type of fund at issue and/or reason(s) for the excess accumulation. Consult the board attorney for further guidance regarding fund balances and related tax rate objections.

Operational Services

Activity Funds ¹

The School Board, upon the Superintendent or designee's recommendation, establishes student activity funds to be managed by student organizations under the guidance and direction of a staff member for educational, recreational, or cultural purposes. ²

The Superintendent or designee shall be responsible for supervising student activity funds in accordance with Board policy, 4:80, *Accounting and Audits*; State law; and the Illinois State Board of Education rules for student activity funds. The Board will appoint a treasurer for each fund to serve as the fund's sole custodian and be bonded in accordance with the School Code.³ The treasurer shall have all of the responsibilities specific to the treasurer listed in the Illinois State Board of Education rules for school activity funds, including the authority to make loans between activity funds. ⁴

Unless otherwise instructed by the Board, a student activity fund's balance will carry over to the next fiscal year. An account containing student activity funds that is inactive for 12 consecutive months shall be closed and its funds transferred to another student activity fund or authorized fund with a similar purpose. ⁵

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

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

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

¹ State law controls this policy's content. See 105 ILCS 5/10-20.19 and 23 Ill.Admin.Code §100.80. ISBE's rules in Part 125 (Student Activity Funds and Convenience Accounts) were in effect only through 6-30-08 after which they were replaced by Part 100. The rules in Part 100 do not provide for *convenience accounts*. Another policy, 7:325, *Student Fundraising Activities*, contains the elements required by State law for a policy on student fund-raising activities.

² Student activity funds are established to account for money used to support the activities of student organizations and clubs, e.g., homeroom, yearbook, class year, choral or band group, class projects, student clubs, student council, and student-sponsored bookstore. (23 Ill.Admin.Code §100.20). The funds are under the school board's control giving it a fiduciary responsibility to safeguard them along with district assets.

³ 105 ILCS 5/8-2. A board's insurance carrier can assist the board with obtaining bonds for these individuals.

⁴ ISBE's rule permits the activity fund treasurer to make loans between funds "if and as authorized by the board's policy." (23 Ill.Admin.Code §100.80). A board that does not want to allow loans between activity funds should choose one of these alternatives:

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

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

⁵ The authority for this paragraph's first sentence is 23 Ill.Admin.Code §100.80(c)(7); the second sentence is up to the local board's discretion. The following option may be inserted after the first sentence: "However, money remaining in the any Senior Class fund after graduation will automatically transfer to the next year's class."

General Personnel

Compliance with the Fair Labor Standards Act ¹

Job Classifications

The Superintendent will ensure that all job positions are identified as either “exempt” or “non-exempt” according to State law and the Fair Labor Standards Act (FLSA) and that employees are informed whether they are “exempt” or “non-exempt.”² “Exempt” and “non-exempt” employee categories may include certificated and non-certificated job positions. ~~All non-exempt employees, whether paid on a salary or hourly basis, are covered by minimum wage and overtime provisions.~~

Workweek and Compensation

The workweek for District employees will be 12:00 a.m. Saturday until 11:59 p.m. Friday.³ Non-exempt employees will be compensated for all hours worked in a workweek including overtime. ~~For non-exempt employees paid a salary, the salary is paid for a 40-hour workweek even if an employee is scheduled for less than 40 hours.~~⁴ “Overtime” is time worked in excess of 40 hours in a single workweek.

~~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, 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.

The Illinois Minimum Wage Law, 820 ILCS 105/4a, covers all school employees, although many are exempt from overtime requirements. The federal Fair Labor Standards Act (FLSA) ([29 U.S.C. §201 et seq.](#)) also covers school employees ([29 U.S.C. 201 et seq.](#)). The law offering the greatest benefits to employees will control specific issues.

School districts in several states are experiencing widespread action by non-exempt employees to recoup unpaid overtime wages. Many of these actions have been successful because the school district did not strictly comply with overtime requirements or recordkeeper’s requirements. See [29 C.F.R. Part 785 \(Hours Worked\)](#) and [29 C.F.R. Part 516, \(Records to Be Kept by Employers\).](#)

The U.S. Dept. of Labor (DOL) frequently finds employees misclassified as independent contractors or exempt employees. School officials are strongly encouraged to seek assistance from their attorney when making decisions involving wage and hour issues.

² “Exempt” employees are exempt from overtime requirements. An exempt employee, according to Illinois law, is “any employee employed in a bona fide executive, administrative or professional capacity, ... , as defined by or covered by the Federal Fair Labor Standards Act of 1938 and the rules adopted under that Act, as both exist on March 30, 2003, but compensated at the amount of salary specified [in the current rules].” 820 ILCS 105/4a. By referring to the definitions in the former federal rules, the Illinois legislature rejected the [DOL’s U.S. Department of Labor’s](#) effort to expand the number of employees who are exempt from overtime requirements. ~~To qualify for exemption in Illinois, employees generally must meet certain tests regarding their job duties and be paid on a “salary basis” at not less than \$455 per week. To check compliance, districts should review their list of exempt employees with their attorneys.~~

³ Employers must identify the workweek, but may designate any [seven](#)~~7~~-day period. ~~Boards should ascertain what is currently used as a workweek to avoid inadvertently adopting a policy containing a different designation.~~ The workweek in this sample policy allows supervisors to adjust employee schedules at the end of the week if an employee was required to work the weekend.

⁴ Setting the workweek at 40 hours avoids having to pay an employee additional “straight time” compensation for the extra hours up to 40.

Overtime

A non-exempt employee shall not work overtime without his or her supervisor's express approval.⁵ All supervisors of non-exempt employees shall: (1) monitor overtime use on a weekly basis and report such use to the business office, (2) seek the Superintendent or designee's written pre-approval for any long term or repeated use of overtime that can be reasonably anticipated, (3) ensure that overtime provisions of this policy and the FLSA are followed, and (4) ensure that employees are compensated for any overtime worked. -Accurate and complete time sheets of actual hours worked during the workweek shall be signed by each employee and submitted to the business office. -The business office will review work records of employees on a regular basis, make an assessment of overtime use, and provide the assessment to the Superintendent. -In lieu of overtime compensation, non-exempt employees may receive compensatory time-off, according to Board policy 5:310, *Compensatory Time-Off*.⁶

Suspension Without Pay

No exempt employee shall have his or her salary docked, such as by an unpaid suspension, if the deduction would cause a loss of the exempt status.⁷ Licensed employees may be suspended without pay in accordance with Board policy 5:240, *Professional Personnel - Suspension*. Non-licensed employees may be suspended without pay in accordance with Board policy 5:290, *Educational Support Personnel - Employment Termination and Suspensions*.

Implementation ⁸

The Superintendent or designee shall implement the policy in accordance with the FLSA, including its required notices to employees. -In the event of a conflict between the policy and State or federal law, the latter shall control.

LEGAL REF.: 820 ILCS 105/4a.
Fair Labor Standards Act, 29 U.S.C. §201 et seq., 29 C.F.R. Parts 516, 541, 548, 553, 778, and 785.

CROSS REF.: 5:240 (Suspension), 5:290 (Employment Termination and Suspensions), 5:310 (Compensatory Time-Off)

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

⁵ This policy requires a supervisor's express approval as a best practice. However, employers will also be liable for work time when the employer knows or has reason to know work is continuing on or offsite. See 29 C.F.R. §785.11 and 5:35-AP3, *Compensable Work Time for Non-Exempt Employees Under the FLSA*. Employees must be compensated for all time worked, even if it is unauthorized overtime. However, employees who intentionally work unauthorized overtime may be subject to disciplinary action.

⁶ Optional. The FLSA regulates the use of *comp-time*. (29 C.F.R. §§553.22-553.28). Before offering comp-time, a board must have a compensatory time-off policy or the topic must be covered in an applicable collective bargaining agreement. See 5:310, *Compensatory Time-Off* and 5:310-E, *Exhibit—Agreement to Receive Compensatory Time-Off*.

⁷ Docking an exempt employee's salary (e.g., for a disciplinary suspension) may result in the loss of the exemption unless the deduction was specifically authorized. Teachers, however, are not covered by this restriction.

⁸ The FLSA is administered by the Wage and Hour Division of the [DOL U.S. Department of Labor](http://www.dol.gov). Its website contains compliance guidance, posters, and e-tools (www.dol.gov/compliance/laws/comp-flsa.htm www.dol.gov/WHd/flsa/index.htm).

General Personnel

Communicable and Chronic Infectious Disease 1

The Superintendent or designee shall develop and implement procedures for managing known or suspected cases of a communicable and chronic infectious disease involving District employees that are consistent with State and federal law, Illinois Department of Public Health rules, and School Board policies. ²

An employee with a communicable or chronic infectious disease is encouraged to inform the Superintendent immediately and grant consent to being monitored by the District's Communicable and Chronic Infectious Disease Review Team. The Review Team, if used, provides information and recommendations to the Superintendent concerning the employee's conditions of employment and necessary accommodations. The Review Team shall hold the employee's medical condition and records in strictest confidence, except to the extent allowed by law. ³

An employee with a communicable or chronic infectious disease will be permitted to retain his or her position whenever, after reasonable accommodations and without undue hardship, there is no

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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 a topic on which a board should seek legal advice before proceeding.

² District employment is contingent upon satisfactory results of a physical examination and freedom from communicable diseases. ~~(105 ILCS 5/24-5).~~ The U.S. Supreme Court, however, has held that the Rehabilitation Act prohibits discrimination against a person handicapped by a communicable disease, provided that person is "otherwise qualified" to perform the job. *School Bd. of Nassau County, Fla. v. Arline*, ~~107 S.Ct. 1123~~ 480 U.S. 273 (1987) (teacher with tuberculosis was protected by the Rehabilitation Act). The decision supports the position that an HIV-positive employee or applicant who is "otherwise qualified" to perform the job must be reasonably accommodated despite having AIDS.

~~Following the expansion of the definition of a disability under the Americans with Disabilities Act Amendments Act (ADAAA), Pub. L. 110-325, the ADAAA may protect an HIV-positive employee or applicant. 42 U.S.C. §12102(2)(A); 29 C.F.R. Part 1630. The federal government's position is that HIV infection qualifies as a disability under the Americans ADAAA. See www.ada.gov/hiv/ada_q&a_aids.pdf (U.S. Dept. of Justice) and www.eeoc.gov/eeoc/publications/hiv_individual.cfm (EEOC). Other contagious diseases may also qualify as disabilities under the ADAAA; however, employers are not required to accommodate employees in those cases where there is an actual direct threat to the health or safety of others that cannot be eliminated or reduced by reasonable accommodation. 29 C.F.R. §1630.2(r). The ADAAA made significant changes to the Americans with Disabilities Act's definition of disability by broadening the scope of coverage thus overturning 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. EEOC's regulations, 29 C.F.R. Part 1630, can be found at: www.eeoc.gov/laws/types/disability_regulations.cfm. Boards should consult with their attorneys regarding how the ADAAA and its implementing regulations impact the employment of an individual with a communicable disease who is otherwise qualified to perform the job.~~

³ This paragraph is optional. While not required by law, the creation and use of a Communicable and Chronic Infectious Disease Review Team (CCIDRT) could greatly assist a district's efforts to review data on an employee who has a communicable or infectious disease. Its members are appointed by the superintendent according to ~~board policy~~, 2:150, *Committees*. Whether the CCIDRT is an administrative committee organized by the superintendent and/or administrators or a board committee subject to the Open Meetings Act must be discussed with the board attorney (see also 2:150-AP, *Superintendent Committees*). The CCIDRT is guided by the board's policies, Ill. Dept. of Public Health rules and regulations, and all other applicable State and federal laws. The CCIDRT also consults the employee's personal physician and local health department officials before making any recommendations.

The Americans with Disabilities Act (ADA) specifies that only an employee's direct supervisor and someone who would need to know in the event of an emergency may have access to an employee's medical records. ~~42 U.S.C. §12112(d).~~ The Review Team's ability to operate may depend on the employee's waiver of the ADA's confidentiality provisions.

substantial risk of transmission of the disease to others, provided an employee is able to continue to perform the position's essential functions.—⁴ An employee with a communicable and chronic infectious disease remains subject to the Board's employment policies including sick and/or other leave, physical examinations, temporary and permanent disability, and termination.

LEGAL REF.: Americans With Disabilities Act, 42 U.S.C. §12101 et seq.; 29 C.F.R. §1630.1 et seq., amended by the Americans with Disabilities Act Amendments Act (ADAAA), Pub. L. 110-325.
Rehabilitation Act of 1973, 29 U.S.C. §791; 34 C.F.R. §104.1 et seq.
Department of Public Health Act, 20 ILCS 2305/6.
105 ILCS 5/24-5.
Personnel Record Review Act, 820 ILCS 40/.
Control of Communicable Diseases, 77 Ill.Admin.Code Part 690.

CROSS REF.: 2:150 (Committees), 5:30 (Hiring Process and Criteria), 5:180 (Temporary Illness or Temporary Incapacity)

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

⁴ Required by 42 U.S.C. §12101 et seq.

General Personnel

Responsibilities Concerning Internal Information ¹

District employees are responsible for maintaining: (1) the integrity and security of all internal information, and (2) the privacy of confidential records, including but not limited to: student school records, personnel records, and the minutes of, and material disclosed in, a closed School Board meeting. Internal information is any information, oral or recorded in electronic or paper format, maintained by the District or used by the District or its employees. The Superintendent or designee shall manage procedures for safeguarding the integrity, security, and, as appropriate, confidentiality of internal information.

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

¹ State and federal law controls the content of this policy to the extent that: (1) the unauthorized disclosure of student school records is prohibited by the Family Educational Rights and Privacy Act, (20 U.S.C. §1232g); and the Illinois School Student Records Act, (105 ILCS 10/); (2) the Freedom of Information Act (FOIA) (5 ILCS 140/7) exempts from disclosure certain private or personal information, employee evaluations, protects school security and response plans, and maps from disclosure; (3) if a district offers a self-insured group health plan or flexible spending account, it must establish clear procedures to protect the employees' health information (45 C.F.R. §164.502); (4) the Freedom of Information Act contains exemptions for certain private or personal information and employee evaluations (5 ILCS 140/7); (5) the Ill. Personnel Record Review Act governs the release of an employee's disciplinary action (820 ILCS 40-7); and (65) any person who knowingly destroys, removes, conceals, or alters any public record with the intent to defraud any party commits a Class 4 felony (50 ILCS 205/4, amended by P.A. 98-1063). These are examples of the laws requiring the safekeeping of district and school records.

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 these responsibilities, it will supersede this policy and the board policy should state, "Please refer to the applicable collective bargaining agreement following current Agreement: [actual title of Collective Bargaining Agreement (not including dates)]." For employees not covered, the policy should reflect the board's current practice.

This sample policy's intent is to safeguard district records accessed or created by employees. This includes protecting the district from unauthorized release of confidential records or the destruction of records. While the legal guidance is sparse, districts should take steps to avoid security breaches. Some districts may have more legal obligations than others. School districts that are considered "covered entities" under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub.L. 104-191) are required to comply with the HIPAA Security/Privacy Rule. See f/n 1 of policy 7:340, Student Records, for further discussion of HIPAA. Furthermore, districts that allow foreign exchange students to attend their schools may need to put safeguards in place in order to protect data that is transferred to the Student and Exchange Visitor Information System (SEVIS). See f/n 18 of policy 7:50, School Admissions and Student Transfers To and From Non-District Schools, for further discussion of SEVIS.

To help maintain the integrity of records, districts should prevent their over-accumulation. Not all internal information must be preserved even if it is a *public record* for purposes of FOIA/the Freedom of Information Act, 5 ILCS 140/. According to the Local Records Act, (50 ILCS 205/), a record must be retained only when it contains: (1) evidence of the district's organization, function, policies, procedures, or activities; or (2) informational data appropriate for preservation. While this is a slippery slope without definitive parameters, recorded information may generally be deleted that are conversational or personal, meeting notices, spam, email of a transient nature, duplicate material sent from other staff members, and draft material. However, no district record, no matter its form, may be destroyed if it is subject to a litigation hold. See administrative procedure 2:250-AP2, Protocols for Record Preservation and Development of Retention Schedules. For guidance on Board member use and retention of email, see 2:140-E, *Guidance for Board Member Communications, Including Email Use.*

LEGAL REF.: Family Educational and Privacy Rights Act, 20 U.S.C. §1232g.
Uses and Disclosures of Protected Health Information; General Rules, 45 C.F.R.
§164.502.
Ill. Freedom of Information Act, 5 ILCS 140/.
Local Records Act, 50 ILCS 205/.
105 ILCS 10/.
Personnel Record Review Act, 820 ILCS 40/.

CROSS REF.: 2:140 (Communications To and From the Board), 2:250 (Access to District
Public Records), 5:150 (Personnel Records), 7:340 (Student Records)

General Personnel

Temporary Illness or Temporary Incapacity ¹

A temporary illness or temporary incapacity is an illness or other capacity of ill-being that renders an employee physically or mentally unable to perform assigned duties. During such a period, the employee can use accumulated sick leave benefits.² However, income received from other sources (worker's compensation, District-paid insurance programs, etc.) will be deducted from the District's compensation liability to the employee. The School Board's intent is that in no case will the employee, who is temporarily disabled, receive more than 100 percent of his or her gross salary. Those insurance plans privately purchased by the employee and to which the District does not contribute, are not applicable to this policy.

If illness, incapacity, or any other condition causes a teacher or other licensed employee to be absent in one school year, after exhaustion of all available leave, for more than 90 consecutive work days, such absence may be considered a permanent disability and the Board may begin dismissal proceedings subject to State and federal law, including the Americans with Disabilities Act.³ The

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This policy is consistent with the minimum requirements of State law. The local collective bargaining agreement may contain provisions that exceed these requirements. When a policy's subject matter is superseded by a bargaining agreement, the board policy can state, "Please refer to the applicable collective bargaining agreement." For employees not covered, the policy should reflect the board's current practice to the current [insert name of CBA or use a generic reference, e.g., "agreement between the bargaining representative and the School Board"]".

² Temporary mental or physical incapacity as determined by a medical examination is not cause for dismissing a teacher. (105 ILCS 5/10-22.4 and 5/24-13).

³ A teacher's contractual continued service status is not affected by an absence caused by temporary illness or temporary incapacity. (105 ILCS 5/24-13). Two cases, decided before the Americans with Disabilities Act (ADA) (42 U.S.C. §12101 et seq.) was enacted, held that this statute grants school boards the power to define, through policy, temporary illness or incapacity. *School Dist 151 v. ISBE*, 507 N.E.2d 134-154 Ill.App.3d 375 (1st Dist.Ill.App-1, 1987); *Elder v. School Dist. No.127 1/2*, 208 N.E.2d 42360 Ill.App.2d 56 (1st Dist.Ill.App-1, 1965).

Important: Until February 2014, this paragraph in the PRESS sample policy applied to all employees. We limited its application to teachers in response to feedback that the paragraph should align with the statute. Section 24-13, which this paragraph implements, applies only to teachers and, thus, we amended the paragraph to make it applicable only to teachers. **This change may trigger a bargaining requirement with a bargaining unit for educational support personnel.**

Despite the statute's limitation to licensed employees, many boards apply this language to educational support personnel. **Consult the board attorney** about whether to apply this language to educational support personnel. For boards that wish to apply this language to both licensed and educational support personnel, strike ~~teacher or other licensed~~ from the text of the first two sentences of this paragraph and correct the grammar.

The Illinois appellate court decisions cited above upheld a board policy designating when a temporary [illness or] incapacity becomes permanent for the purpose of being a cause of dismissal. The court approved using 90 days of absence due to illness, after the exhaustion of sick days, as the point at which the district considers termination. The court upheld a hearing officer decision noting that a policy providing for a 90-school-day absence following exhaustion of sick leave was sufficient under Section 24-13. The court noted that applying that particular policy over a ~~two~~2-year period would not be appropriate because the ~~two~~2-year period would have the effect of allowing the school board to define a temporary illness or incapacity out of existence; i.e., making it impossible for a teacher to qualify for such an absence. **Important:** a district should consult the board attorney before determining that a teacher's temporary illness or incapacity became permanent.

Superintendent may recommend this paragraph's use when circumstances strongly suggest that the teacher or other licensed employee returned to work intermittently in order to avoid this paragraph's application. This paragraph shall not be considered a limitation on the Board's authority to take any action concerning an employee that is authorized by State and federal law.

Any employee may be required to have an examination, at the District's expense, by a physician who is licensed in Illinois to practice medicine and surgery in all its branches, a ~~licensed~~ advanced practice ~~registered nurse, who has a written collaborative agreement with a collaborating physician that authorizes the advanced practice nurse to perform health examinations, or a licensed~~ physician assistant ~~who has been delegated the authority by his or her supervisor to perform health examinations if the examination is job-related and consistent with business necessity.~~ ⁴

LEGAL REF.: ~~Americans with Disabilities Act, 42 U.S.C. §12101 et seq.~~², Americans with Disabilities Act, 105 ILCS 5/10-22.4, 5/24-12, and 5/24-13.
Elder v. School Dist. No.127 1/2, ~~208 N.E.2d 423 (Ill.App.1, 1965)~~ 60 Ill.App.2d 56 (1st Dist. 1965).
School District No. 151 v. ISBE, ~~507 N.E.2d 134 (Ill.App.1, 1987)~~ 154 Ill.App.3d 375 (1st Dist. 1987).

CROSS REF.: 5:30 (Hiring Process and Criteria), 5:40 (Communicable and Chronic Infectious Disease), 5:185 (Family and Medical Leave), 5:250 (Leaves of Absence), 5:330 (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.

The point at which any employee's temporary disability becomes permanent must be analyzed using the Americans with Disabilities Act, ~~(42 U.S.C. §12101 et seq.)~~², also referred to as the ADA or the ADA Amendments Act (ADAAA) (Pub. L. 110-325). This federal law prohibits employers from discriminating against individuals with a disability who can perform the essential functions of a job with or without reasonable accommodation. A district should regularly analyze each position's job description to ensure that it identifies the position's essential functions. Consult the board attorney concerning compliance with the ADA.

⁴ The State law (105 ILCS 5/24-5, amended by P.A. 100-513), allowing boards to require physicals of current employees *from time to time*, has been superseded by the ADA, 42 U.S.C. §12112(d)(4). The ADA allows medical inquiries of current employees only when they are job-related and consistent with business necessity or part of a voluntary employee wellness program. ~~(Id.)~~. Districts may deny jobs to individuals with disabilities who pose a direct threat to the health or safety of others in the workplace, provided that a reasonable accommodation would neither eliminate the risk nor reduce it to an acceptable level. ~~(42 U.S.C. §12113; 29 C.F.R. Part §1630.2(r)).~~

Note that while examination by a spiritual leader/practitioner is sufficient for leaves, the statute does not authorize an examination by a spiritual leader/practitioner for district-ordered physicals of an employee. The difference may present a constitutional issue; contact the board attorney for an opinion if the employee wants to use an examination by a spiritual leader/practitioner.

Educational Support Personnel

Compensatory Time-Off ¹

This policy governs the use of compensatory time-off by employees who: (1) are covered by the overtime provisions of the Fair Labor Standards Act, 29 U.S.C. §201 *et seq.*, and (2) are not represented by an exclusive bargaining representative.

Employees may be given 1-1/2 hours of compensatory time-off in lieu of cash payment for each hour of overtime worked. -Other than as provided below, at no time may an employee's accumulated compensatory time-off exceed 240 hours, which represents compensation for 160 hours of overtime. -2 An employee whose work regularly includes public safety, emergency response, or seasonal activities may accumulate a maximum of 480 hours of compensatory time, which represents compensation for 320 hours of overtime.-3 If an employee accrues the maximum number of compensatory time-off hours, the employee:- (1) is paid for any additional overtime hours worked, at the rate of one and one-half times the employee's regular hourly rate of pay, and (2) does not accumulate compensatory time-off until the employee uses an equal amount of accrued time-off. 4

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¹ The federal regulations implementing the Fair Labor Standards Act (FLSA) governs the use of "comp-time." (29 C.F.R. §§553.21-553.28 and 553.50, *e-CFR Data*). See *IASB sample policy 5:35, Compliance with the Fair Labor Standards Act*, for discussion of the FLSA. In order for a district to offer comp-time, it must have a compensatory time-off policy or the topic must be covered in an applicable collective bargaining agreement. 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. School officials should consult with the board attorney before adopting this policy.

The terms "comp-time" and "compensatory time-off" mean paid time-off that is earned and accrued by a non-exempt employee in lieu of overtime pay for over 40 hours worked in one workweek. Compensatory time-off in lieu of overtime pay must be at the premium rate of 1.5 hours of compensatory time for each hour of overtime worked (just as the monetary rate for overtime is calculated at 1.5 times the regular rate of pay). As a condition for using comp-time in lieu of overtime pay, the employer and employee must have an "agreement or understanding" before the work is performed. Further, the employee's decision to accept comp-time must be made freely. For employees represented by an exclusive bargaining agent, the agreement to use comp-time must be between the district and the bargaining agent.

For non-exempt employees who are not covered by a collective bargaining agreement, the "agreement or understanding" concerning comp-time must be between the district and employee. See exhibit 5:310-E, *Agreement to Receive Compensatory Time-Off*. If the district had a regular practice of comp-time before April 15, 1986, that is deemed an "agreement." Notice to the non-exempt employees that comp-time will be given in lieu of overtime pay for overtime through bulletin board notices is sufficient to constitute an "agreement or understanding," provided that the decision to accept compensatory time-off is made freely.

² This sample policy contains the maximum hours that the FLSA allows an employee to accumulate. It is a ceiling that an employee may hit several times, but never go over without using some of the time-off. A school board may forfeit flexibility and set this ceiling lower.

³ "Seasonal activities" include activities during periods of significantly increased demand, that are of a regular and recurring nature. A seasonal activity is not limited strictly to those operations that are very susceptible to changes in the weather. However, mere periods of short but intense activity do not make an employee's job seasonal. However, the 480-hour accrual limit will not apply to office personnel or other employees who may perform such seasonal activities only in emergency situations, even if they spend substantially all of their time in a particular workweek engaged in such activities.

⁴ The FLSA permits a board to require that employees reduce their accumulated compensatory time or face having their supervisor schedule the compensatory time-off for them. *Christensen et al. v. Harris County et al.*, 529 U.S. 576, 120 S.Ct. 1655, 146 L.Ed.2d 621 (2000). Such an optional provisions follows:

An employee who has accrued compensatory time-off shall be permitted to use such time in at least half-day components provided such requests do not unduly disrupt the District's operations.⁵ The employee's supervisor must approve a request to use compensatory time-off.

Upon termination of employment, an employee will be paid for unused compensatory time at the higher of:

1. The average regular rate received by such employee during the last three years of employment; or
2. The final regular rate received by such employee.

Compensatory time-off is time during which the employee is not working and is, therefore, not counted as "hours worked" for purposes of overtime compensation.

Implementation

The Superintendent or designee shall implement this policy in accordance with the FLSA. In the event of a conflict between the policy and the FLSA, the latter shall control.

LEGAL REF.: Fair Labor Standards Act, 29 U.S.C. §201 et seq.; 29 C.F.R. Part 553.

CROSS REF.: 5:35 (Compliance with the Fair Labor Standards Act), 5:185 (Family and Medical Leave), 5:270 (Employment At-Will, Compensation, and Assignment)

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

Notwithstanding the above and to avoid hardship to the District, an employee's supervisor may require the employee to reduce accumulated compensatory time, or schedule the compensatory time-off for the employee, so that the employee does not accumulate more than 75 hours of compensatory time, which represents compensation for 50 hours of overtime.

⁵ Optional.

Instruction

Curriculum Development ¹

Adoption ²

The Superintendent shall recommend a comprehensive curriculum that is aligned with:

1. The District's educational philosophy and goals,
2. Student needs as identified by research, demographics, and student achievement and other data,
3. The knowledge, skills, and abilities required for students to become life-long learners,
4. The minimum requirements of State and federal law and regulations for curriculum and graduation requirements, ³
5. The curriculum of non-District schools that feed into or from a District school, provided that the necessary cooperation and information is available, ⁴
6. The Illinois State Learning Standards and any District learning standards, and
7. Any required State or federal student testing.

The School Board will adopt, upon recommendation of the Superintendent, a curriculum that meets the above criteria. ⁵

Experimental Educational Programs and Pilot Projects ⁶

The Superintendent may recommend experimental educational programs and/or pilot projects for Board consideration. Proposals must include goals, material needs, anticipated expenses, and an evaluation process. The Superintendent shall submit to the Board periodic progress reports for programs that exceed one year in duration and a final evaluation with recommendation upon the program's completion.

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

² This section is not dictated by State or federal law, but reflects board work regarding curriculum. Each board should dwell over this section to ensure it articulates the board's intent.

³ State law mandates certain courses of study, but local school boards may set requirements exceeding State law-mandated courses of study. (105 ILCS 5/10-20.8 and 5/27-1 et seq.);

⁴ Alternative for unit districts:

5. The curriculum District-wide and articulated across all grade levels.

⁵ The following is an alternative for boards that do not want the sample language's degree of delegation:

The School Board will consider the Superintendent's recommendation and adopt a curriculum that meets the above criteria.

⁶ Experimental educational programs may require the approval of the State Board of Education and an agreement with the affected exclusive bargaining agent. (105 ILCS 5/10-19), amended by P.A. 100-465. State law addresses pilot programs for teachers in relation to clinical schools, restructuring, and providing special assistance and support to beginning teachers. (105 ILCS 5/2-3.52A), amended by P.A. 100-1046.

Single-Gender Classes and Activities ⁷

The Superintendent may recommend a program of nonvocational⁸ single-gender classes and/or activities to provide diverse educational opportunities and/or meet students' identified educational needs. Participation in the classes or activities must be voluntary, both genders must be treated with substantial equality, and the program must otherwise comply with State and federal law and with Board policy 7:10, *Equal Educational Opportunities*. The Superintendent must periodically evaluate any single-gender class or activity to ensure that: (1) it does not rely on overly broad generalizations about the different talents, capabilities, or preferences of either gender, and (2) it continues to comply with State and federal law and with Board policy 7:10, *Equal Educational Opportunities*.

Development ⁹

The Superintendent shall develop a curriculum review program to monitor the current curriculum and promptly suggest changes to make the curriculum more effective, to take advantage of improved teaching methods and materials, and to be responsive to social change, technological developments, student needs, and community expectations.

The Superintendent shall report to the Board as appropriate, the curriculum review program's efforts to:

1. Regularly evaluate the curriculum and instructional program.
2. Ensure the curriculum continues to meet the stated adoption criteria.
3. Include input from a cross-section of teachers, administrators, parents/guardians, and students, representing all schools, grade levels, disciplines, and specialized and alternative programs.
4. Coordinate with the process for evaluating the instructional program and materials.

Curriculum Guides and Course Outlines

The Superintendent shall develop and provide subject area curriculum guides to appropriate staff members.

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⁷ The U.S. Dept. of Education (DOE) amended its ~~Title IX~~ regulation implementing Title IX of the Education Amendments of 1972 (Title IX) (20 U.S.C. §1681) to make it easier for schools to have single-sex classes and extracurricular activities. (34 C.F.R. ~~Part §106.34~~). Title IX generally protects students from discrimination on the basis of sex. However, the DOE added flexibility to its rules on single-sex classes and activities ~~back in 2006~~, citing research that suggests that some students benefit in single-sex classes. 71 Fed. Reg. 62530 (10-25-06). The rules are very specific and should be reviewed with the board attorney when designing single-sex classes or activities.

Consult the board attorney about accommodation issues for transgender or gender non-conforming students in single sex classes. State law prohibits gender-based discrimination, including transgender and gender non-conforming students. (775 ILCS 5/5-101(A)(11); 775 ILCS 5/1-103(O-1); and 23 Ill.Admin.Code §1.240). ~~Federal law Title IX~~ prohibits exclusion and discrimination on the basis of sex. 20 U.S.C. §1681(a), ~~Title IX of the Education Amendments of 1972~~. According to the ~~U.S. Department of Education's DOE~~ Office for Civil Rights ~~(OCR)~~ and the U.S. Department of Justice, Title IX protects lesbian, gay, bisexual, and transgender students, from ~~gendersex~~ discrimination. See www2.ed.gov/about/offices/list/ocr/lgbt.html; 7:10-AP1, *Accommodating Transgender Students or Gender Non-Conforming Students*.

⁸ 34 C.F.R. §106.34(b)(1).

⁹ The last two sections of this policy provide a process for the board to monitor the extent that its ends for curriculum development are being pursued. However, a board may be concerned that these sections offend the board's efforts to delegate authority to the superintendent to manage the district. If so, these sections should be deleted. ~~See the IASB's Foundational Principles of Effective Governance at:~~ www.iasb.com/principles.cfm.

LEGAL REF.: 20 U.S.C. §1681, Title IX of the Education Amendments of 1972, implemented by
34 C.F.R. Part 106.
105 ILCS 5/10-20.8 and 5/10-19.

CROSS REF.: 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development),
6:70 (Teaching About Religions), 6:80 (Teaching About Controversial Issues)
6:100 (Using Animals in the Educational Program), 6:110 (Programs for
Students At Risk of Academic Failure and/or Dropping Out of School and
Graduation Incentives Program), 6:120 (Education of Children with Disabilities),
6:130 (Program for the Gifted), 6:135 (Accelerated Placement Program), 6:140
(Education of Homeless Children), 6:145 (Migrant Students), 6:150 (Home and
Hospital Instruction), 6:160 (English Learners), 6:170 (Title I Programs), 6:180
(Extended Instructional Programs), 7:10 (Equal Educational Opportunities), 7:15
(Student and Family Privacy Rights)

Instruction

Programs for Students At Risk of Academic Failure and/or Dropping Out of School and Graduation Incentives Program ¹

The Superintendent or designee shall develop, maintain, and supervise a program for students at risk of academic failure or dropping out of school. The program shall include education and support services addressing individual learning styles, career development, and social needs, and may include without limitation one or more of the following:

- Parent-teacher conferences
- Counseling services by social workers and/or guidance counselors
- Counseling services by psychologists
- Psychological testing
- Truants' alternative and optional education program ²
- Alternative school placement
- Community agency services
- Alternative learning opportunities program, in conformity with the Alternative Learning Opportunities Law, as it may be amended from time to time ³
- Graduation incentives program ⁴
- Remediation program ⁵

Any student who is below the age of 20 years is eligible to enroll in a graduation incentives program if he or she: ⁶

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

¹ State law controls this policy's content.

² 105 ILCS 5/2-3.66, amended by P.A. 100-465, authorizes the Ill. State Board of Education (ISBE) to award grants to school districts, ROE educational service regions, and community college districts.

³ 105 ILCS 5/13B-1 et seq. Districts are not required to establish an alternative learning opportunities program. However, if they do, State law requires that the program "provide a flexible standards-based learning environment, innovative and varied instructional strategies, a student-centered curriculum, social programs, and supplemental social, health, and support services to improve the educational achievement of students at risk of academic failure." (105 ILCS 5/13B-20). The program must also meet the requirements in 105 ILCS 5/13B-45. Alternative learning opportunities programs "may include without limitation evening high school, in-school tutoring and mentoring programs, in-school suspension programs, high school completion programs to assist high school dropouts in completing their education, support services, parental involvement programs, and programs to develop, enhance, or extend the transition for students transferring back into the regular school program, an adult education program, or a post-secondary education program." (105 ILCS 5/13B-20.5). See 105 ILCS 5/13B-25.10, as well as other requirements for general State aid and evidence-based funding (the statute references both types of funding), for additional requirements to receive State funds for creating this program.

⁴ Required by 105 ILCS 5/26-16, amended by P.A. 100-465.

⁵ 105 ILCS 5/10-20.9a(b) requires remedial assistance for students who are not promoted to the next higher grade.

⁶ Required by 105 ILCS 5/26-16, amended by P.A. 100-465. Graduation incentives programs are entitled to claim general State aid and evidence-based funding (the statute references both types of funding). A district must ensure that its graduation incentives program receives supplemental general State aid, transportation reimbursements, and special education resources, if appropriate, for students enrolled in the program. 105 ILCS 5/26-2a defines *dropout* as "any child enrolled in grades 9 through 12 whose name has been removed from the district enrollment roster for any reason other than the student's death, extended illness, removal for medical non-compliance, expulsion, aging out, graduation, or completion of a program of studies and who has not transferred to another public or private school and is not known to be home-schooled by his or her parents or guardians or continuing school in another country."

1. Is considered a dropout according to State law;
2. Has been suspended or expelled;
3. Is pregnant or is a parent;
4. Has been assessed as chemically dependent; or
5. Is enrolled in a bilingual education or English Language Learners program.

LEGAL REF.: 105 ILCS 5/2-3.41, 5/2-3.66, 5/10-20.9a, 5/13B, 5/26-2a, 5/26-13, 5/26-14, and 5/26-16.

CROSS REF.: 6:280 (Grading and Promotion), 6:300 (Graduation Requirements), 7:70 (Attendance and Truancy)

Instruction

Student Testing and Assessment Program 1

The District student assessment program provides information for determining individual student achievement and instructional needs,¹ curriculum and instruction effectiveness,² and school performance measured against District student learning objectives and statewide norms.

The Superintendent or designee shall manage the student assessment program that, at a minimum:

1. Administers the State assessment system, known as the *Partnership for Assessment of Readiness for College and Careers* ~~Illinois Assessment of Readiness (PARCC)~~ *Illinois Assessment of Readiness (PARCC-IAR)*, to all students and/or any other appropriate assessment methods and instruments, including norm and criterion-referenced achievement tests, aptitude tests, proficiency tests, and teacher-developed tests.
2. Informs students of the timelines and procedures applicable to their participation in every State assessment. ²
3. Provides each student's parents/guardians with the results or scores of each State assessment and an evaluation of the student's progress. See policy 6:280, *Grading and Promotion*. ³
4. Utilizes professional testing practices. ⁴

Overall student assessment data on tests required by State law will be aggregated by the District and reported, along with other information, on the District's annual report card.⁵ All reliable assessments

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

¹ State and federal law control this policy's content. 105 ILCS 5/2-3.64a-5 requires ISBE to "establish the academic standards that are to be applicable to students who are subject to State assessments." It contains the schedule for assessing students by calendar year and grade. The Ill. State Board of Education (ISBE) selected the *Partnership for Assessment of Readiness for College and Careers* (PARCC) as the State assessment and accountability measure for grades 3-8 through the 2017-2018 school year. Beginning with the 2018-2019 school year, ISBE began transitioning from PARCC to the *Ill. Assessment for Readiness (IAR)*, which continues to use "an anchor set of PARCC items." See letter from State Superintendent Tony Smith, 2-8-19, along with other For ISBE resource material, see at www.isbe.net/IAR www.isbe.net/Pages/Assessment.aspx. In House Joint Resolution 54 (2015), members of the Ill. House and Senate encouraged school districts to not use results of the PARCC test for the 2014-2015 school year through the 2017-2018 school year "as a determining factor for making decisions about a student's educational opportunities, the evaluation of educators, and the allocation of resources based on educational achievement on this assessment."

105 ILCS 5/2-3.64a-5(c), amended by P.A. 100-7, requires that the assessment administered by ISBE for the purpose of student application to or admissions consideration by institutions of higher education be administered on a school day during regular student attendance hours.

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

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

² Required by 105 ILCS 5/2-3.64a-5(c).

³ 105 ILCS 5/2-3.64a-5(e), amended by P.A. 100-222, requires districts to provide State assessment results/scores to students' parents/guardians. The second part of this provision is optional and may be deleted, i.e., "~~and an evaluation of the student's progress.~~"

⁴ 105 ILCS 5/2-3.107; 23 Ill.Admin.Code §1.30(b).

administered by the District and scored by entities outside of the District must be (1) reported to ISBE on its form by the 30th day of each school year, and (2) made publicly available to parents/~~and~~ guardians of students.⁶ Board policy 7:340, *Student Records*, and its implementing procedures govern recordkeeping and access issues.⁷

LEGAL REF.: ~~Family Educational Rights and Privacy Act, 20 U.S.C. §1232g, Family Educational Rights and Privacy Act.~~
~~Illinois School Student Records Act, 105 ILCS 10/, Illinois School Student Records Act.~~
105 ILCS 5/2-3.63a-5, 5/2-3.64a-5, 5/10-17a, 5/22-82, and 5/27-1.

CROSS REF.: 6:15 (School Accountability), 6:280 (Grading and Promotion), 7:340 (Student Records)

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~~⁵ Required by 105 ILCS 5/10-17a, amended by P.A.s 99-642, and P.A. 100-227, 100-807, and 100-1121. School districts must annually, no more than 30 days after receipt from the State Superintendent by October 31, submit to parents/guardians, district taxpayers, the Governor, the General Assembly, and ISBE release a school- their district's and schools' report cards assessing the performance of its schools and students. Districts must: (1) present the report cards at a regular Board meeting, (2) post them on the District's website, (3) make them available to a newspaper of general circulation serving the District, and (4) upon request, send them home to parents/guardians. 105 ILCS 5/10-17a(5). The school report card must describe, among other items, student characteristics, curriculum information, student outcomes and progress, and school environment. The environment report must include indicators from the school climate survey approved under 105 ILCS 5/2-3.153 (requires ISBE, in addition to its default school climate survey, to identify two or three alternative school survey instruments from which districts may select).~~

~~⁶ 105 ILCS 5/22-82, added by P.A. 99-590, requires every school district to report to ISBE for each of its schools, by the 30th day of each school year, all reliable assessments the district administers that are scored by entities outside of the district. The district must make the report on an ISBE-provided form.~~

~~Each school must also make this information publicly available to the parents and guardians of its students through the district's Internet website or distribute the information in paper form. Id. at (b). See 2:250, E2, Immediately Available District Public Records and Web-Posted Reports and Records. Although not required by law, if a board wants to direct that this information be shared more broadly with the public for greater transparency, add "and to the community" after "parents/guardians of students."~~

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

Students

Vandalism ¹

The School Board will seek restitution from students and their parents/guardians for vandalism or other student acts that cause damage to school property. ²

LEGAL REF.: 740 ILCS 115/.

CROSS REF.: 7:130 (Student Rights and Responsibilities), 7:190 (Student Behavior)

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

² The Parental Responsibility Law makes parents/guardians of unemancipated minors who are 11 through 18 years of age liable for actual damages. Parents/guardians may be liable up to \$20,000 for the first act or occurrence of a willful or malicious act. If a pattern or practice of willful or malicious acts by a minor is found by a court to exist for another separate act or occurrence, parents/guardians may be liable up to \$30,000. (740 ILCS 115/5).