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## Meeting of the Board of Education Park Ridge – Niles School District 64

Special Board Meeting Agenda  
Monday, August 20, 2018  
Jefferson School – Multipurpose Room  
8200 Greendale Avenue  
Niles, IL 60714

*On some occasions the order of business may be adjusted as the meetings progresses to accommodate Board members' schedules, the length of session, breaks and other needs.*

### TIME

### APPENDIX

5:30 p.m. **Meeting of the Board Convenes**

- Roll Call
- Introductions
- Opening Remarks from President of the Board

**Board Recesses and Adjourns to Closed Session**

The placement of individual students in special education programs and other matters relating to individual students. 5 ILCS 120/2 (c)(9)

6:00 p.m. **Board Adjourns from Closed Session and Resumes Special Board Meeting**

• **Pledge of Allegiance**

• **Public Comments**

- **Presentation by IASB and Discussion of Board Committee Structure** A-1  
-- Superintendent/IASB Representative

- **Approval of Recommended Personnel Report** A-2  
-- Board President **Action Item 18-08-3**

- **First Reading of PRESS Issues 96, 97 & 98 and Policies 8:20, and 6:135 (new)** A-3  
-- Superintendent

• **Adjournment**

Next Regular

Meeting:

**Monday, August 27, 2018**

Closed Session – 5:30 p.m.

Public Hearing on the 2018-19 Budget – 6:45 p.m.

Regular Board Meeting – 7:00 p.m.

**Roosevelt School – North Gym**

1001 S. Fairview

Park Ridge, IL 60068

In accordance with the Americans with Disabilities Act (ADA), the Board of Education of Community Consolidated School District 64 Park Ridge-Niles will provide access to public meetings to persons with disabilities who request special accommodations. Any persons requiring special accommodations should contact the Director of Facility Management at (847) 318-4313 to arrange assistance or obtain information on accessibility. It is recommended that you contact the District, 3 business days prior to a school board meeting, so we can make every effort to accommodate you or provide for any special needs.

To: Board of Education  
From: Dr. Laurie Heinz, Superintendent  
Date: August 20, 2018  
Re: Presentation by IASB and Discussion of Board Committee Structure

### **Background**

Earlier this summer, the Board created two special committees in accordance with Board [Policy 2:150](#).

Formal action to establish a **School Resource Officer (SRO) Committee** was taken at the June 25, 2018 meeting. Board Vice-President Rick Biagi and Board Secretary Tom Sotos were designated to serve as the Board members on this committee. The Board SRO Committee is expected to be a short-term committee and was tasked with creating a Memorandum of Understanding (MOU) that aligns to the draft Mission Statement, which will need to be finalized by this committee and then approved by the Board. The committee will also ensure the draft Intergovernmental Agreements with the City of Park Ridge and Village of Niles align with desired outcomes of the pilot SRO program.

At the July 9, 2018 meeting, the Board took formal action to create a **Special Education Committee**. Board members Larry Ryles and Fred Sanchez were designated as the Board's representatives on this committee. Further discussion is needed to explicitly define the membership, charge and timeline for this special committee.

To prepare for the launch of both committees, community members this summer were invited to submit their name for committee consideration and/or to offer individuals or organizations to serve as a resource for the two committees in their work.

### **IASB Workshop**

Because of the limited past experience within District 64 utilizing Board committees, the Board requested that Dr. Dee Molinare, Field Services Director from the Illinois Association of School Boards (IASB), provide a workshop this evening to provide further insights into the effective use of special committees.

It is expected that the Board would then be prepared to continue its discussion on the membership, charge, roles, responsibilities and timeline for the Special Education Committee.

Both committees also would be expected to move forward with identifying members, establishing a meeting schedule for their work and begin to establish agendas for upcoming meetings.



*ILLINOIS ASSOCIATION  
OF SCHOOL BOARDS*

**Board Committees  
August 20, 2018**



*ILLINOIS ASSOCIATION  
OF SCHOOL BOARDS*

**Dee Molinare, Ed.D.  
Field Services Director**

# Foundational Principles of Effective Governance

1. The Board Clarifies the District Purpose
2. The Board Connects with the Community
3. The Board Employs a Superintendent
4. The Board Delegates Authority
5. The Board Monitors Performance
6. The Board Takes Responsibility for Itself

# Board Committees

- Purpose
- Types
- Relation to Foundational Principles

# Board Committees

*Purpose of a committee?*

*–Gathering of information*

*–Summarizing information*

*–Identifying alternatives*

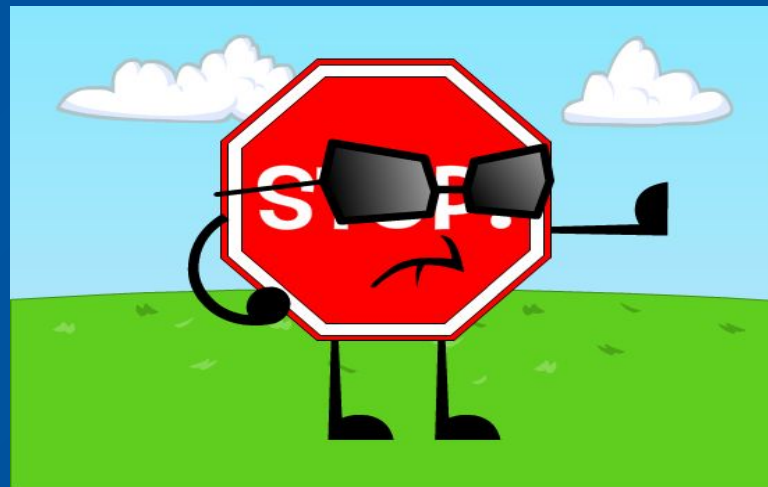
*–Making recommendations*



# Board Committees

*What does a committee NOT do?*

- *Does not act for or as the board*
- *Does not do the work of the Superintendent or administrators*



# Board Committees

## *Types of Committees*

- *Standing board committees*
- *Special or ad hoc committee*
- *Committee of the whole*

# Board Committees

## *Purpose and Scope*

- *Mission statement - statement of purpose*
- *Membership - who is eligible to serve? How do they become members?*
- *Making recommendations*

# Board Committees

## *Purpose and Scope*

- When does the committee meet?*
- When should the work be completed?*

# Board Committees

*Purpose and scope*

*–What resources will the committee have available?*

# Board Committees

## *Standing committee*

- *Value is questionable...*
  - Is it board work or is it staff work
  - Doesn't true board work deserve the attention of the whole board?

# Board Committees

## *Standing Committee*

- The purpose?
- Duty?
- Full board benefit?
- Re-hashing work?

# Board Committees

## *Special/Ad hoc committee*

- Designed for a specific purpose and designated lifespan



# Board Committees

## *Committee of the whole*

- Structure used to discuss an issue or issues without voting

# Board Committees

*Any school board committee:*

- Following OMA
- Posted agenda
- Minutes
- Report back to board with a recommendation/findings
- Will committee work interfere with other Board initiatives, policies, contracts

# Foundational Principles of Effective Governance

## To Review - The Work of Board Committees

1. The Board Clarifies the District Purpose
2. The Board Connects with the Community
3. The Board Employs a Superintendent
4. The Board Delegates Authority
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Approval of Recommended Personnel Report

ACTION ITEM 18-08-3

I move that the Board of Education of Community Consolidated School District 64, Park Ridge – Niles, Illinois, approve the Personnel Report, noting that the Personnel Report is based on the recommendation of the Superintendent and not upon the Board’s direct knowledge regarding any of the specific individuals selected for employment.

The votes were cast as follows:

Moved by \_\_\_\_\_ Seconded by \_\_\_\_\_

AYES:

NAYS:

PRESENT:

ABSENT:

8/20/18

August 20, 2018  
Personnel Report

Zack Beyer	Employ as .60 Physical Education Teacher at Field School effective August 16, 2018 - BA, Step 1 - \$30,660.60.
Jordan Doles	Employ as Special Education Teaching Assistant at Field School effective August 20, 2018 - \$15.98 hourly.
Selviye Dzolovic	Employ as Special Education Teaching Assistant at Field School effective August 17, 2018 - \$15.98 hourly.
Kimberly DuMars	Employ as Early Childhood Teaching Assistant at Jefferson School effective August 16, 2018 - \$15.98 hourly.
Anne Fussichen	Employ as .74 C of C Language Arts Teacher at Emerson School effective August 16, 2018 - MA+24, Step 1 - \$47,736.66.
Natalie Gerny	Employ as .29 Art Teacher at Field, Roosevelt, and Washington Schools effective August 16, 2018 - BA+24, Step 1 - \$15,945.07.
Bethany Johnson	Employ as .5 Special Needs Teaching Assistant at Roosevelt School effective August 16, 2018 - \$16.13 hourly.
Andrea Maggiore	Employ as Math/Social Studies Teacher at Emerson School effective August 16, 2018 - BA, Step 1 - \$51,101.
Danielle Millikan	Employ as Special Education Teaching Assistant at Field School effective August 16, 2018 - \$15.98 hourly.
Jenine Pace	Employ as .5 Kindergarten and .22 C of C Teacher at Field and Washington Schools effective August 16, 2018 - BA, Step 1 - \$36,792.72.

Nicolette Solano	Employ as District Behavior Interventionist effective August 16, 2018 - \$58,777.
Ashley Thomas	Employ as Special Education Teaching Assistant at Roosevelt School effective August 16, 2018 - \$15.98 hourly.
Joan Lindgren	Change of Assignment from .5 Physical Education Teacher to .68 Physical Education Teacher at Franklin and Lincoln Schools effective August 16, 2018 - MA, Step 3 - \$41,282.12.
Samantha Neumer	Change of Assignment from .5 Health Teacher to .85 6th, 7th, and 8th grades Health and Technology Teacher at Emerson School effective August 16, 2018 - BA, Step 2 - \$44,247.60.
Nina Greiber	Rehire as Special Education Teaching Assistant at Washington School effective August 20, 2018 - \$16.13 hourly.
Kendra Hutchinson	Rehire as .88 C of C Math and Broadcasting Teacher at Emerson School effective August 16, 2018 - MA, Step 2 - \$52,566.80.
Vanessa Jeske	Rehire as .94 C of C Language Arts Teacher at Lincoln School effective August 16, 2018 - MA, Step 2 - \$56,150.90.
Susan Scialabba	Rehire as Special Education Teaching Assistant at Roosevelt School effective August 16, 2018 - Step 2 - \$16.13.
Megan Chambers	Resignation as Teaching Assistant at Roosevelt School effective August 10, 2018.
Dagmaris Febus	Resignation as Teaching Assistant at Washington School effective August 16, 2018.

Kimberly Lor	Resignation as Teaching Assistant at Washington School effective August 10, 2018.
Rebecca Pantazis	Resignation as EDK Teaching Assistant at Jefferson School effective August 14, 2018.
Molly Purse	Resignation as Special Education Teaching Assistant at Field School effective August 9, 2018.
J. Scott Hulting	Retire as Science Teacher at Lincoln School effective June 30, 2020.



<b>Policy</b>	<b>Issue</b>	<b>Title</b>	<b>District Policy Committee Change/No Change</b>	<b>Board Policy Committee 7/19/18 Change/No Change</b>	<b>Board Meeting August 20, 2018 Change/No Change</b>
2:260	97	School Board – Uniform Grievance Procedure	Pages 4 & 7	Page 4 revisions in red	
4:15	96	Operational Services – Identity Protection	N/C	Page 1 add “and/or designee”	
4:40	97	Operational Services – Incurring Debt	Pages 1 & 2	Pages 1 & 2	
4:80	96	Operational Services – Accounting and Audits	N/C	N/C	
4:150	96	Operational Services – Facility Management and Building Programs	Page 1	N/C	
4:170	96	Operational Services – Safety	Page 1 insert “walkies or/and Crisis Go”	N/C	
5:10	96	General Personnel – Equal Employment Opportunity and Minority Recruitment	Page 5	N/C	
5:20	97	General Personnel – Workplace Harassment Prohibited	Pages 3 & 4	N/C	
5:90	96	General Personnel – Abused and Neglected Child Reporting	N/C	Page 3 insert “or HR”	
5:100	96	General Personnel – Staff Development Program	N/C	N/C	
5:240	96	Professional Personnel – Suspension	N/C	Page 2 add “or designee”	

6:20	96	Instruction – School Year Calendar and Day	N/C	N/C	
6:60	96	Instruction - Curriculum Content	N/C	See revisions on Pages 1, 2, 3, 5, and 6	
6:80	96	Instruction – Teaching About Controversial Issues	N/C	N/C	
6:135	98	Instruction – Accelerated Placement Program	-	-	
8:20		Community Relations - Community Use of School Facilities	-	-	

## School Board

### Uniform Grievance Procedure 1

A student, parent/guardian, employee, or community member should notify any District Complaint Manager if he or she believes that the School Board, its employees, or its agents have violated his or her rights guaranteed by the State or federal Constitution, State or federal statute, or Board policy<sup>2</sup>, or have a complaint regarding any one of the following:<sup>3</sup>

1. Title II of the Americans with Disabilities Act<sup>4</sup>
2. Title IX of the Education Amendments of 1972
3. Section 504 of the Rehabilitation Act of 1973<sup>5</sup>
4. Title VI of the Civil Rights Act, 42 U.S.C. §2000d et seq.

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

<sup>1</sup> State or federal law requires this subject matter be covered by policy and controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. Employee grievance procedures are a mandatory subject of bargaining and cannot be changed without the employee exclusive representative's consent. This policy is in addition to, and not a substitute for, the employee grievance procedure contained in a collective bargaining agreement.

A grievance procedure is required by many civil rights acts and implementing regulations, including those listed. ~~For the sake of consistency and ease of administration, this policy consolidates all board grievance procedures into one policy, except those contained in collective bargaining agreements. See the cross references for the policies referring to this uniform grievance procedure policy.~~

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

~~<sup>3</sup> Attorneys disagree whether ~~The Individuals with Disabilities Education Act (IDEA) should be included in the list of statutes that may serve as the basis of a grievance, and attorneys disagree whether it should be.~~ Many believe that IDEA provides the exclusive remedy; others believe that including IDEA allows parents an opportunity to get their position before the board. Unique and specific complaint resolution mechanisms are expressly provided under IDEA, Article 14 of the School Code, and their respective implementing regulations. These mechanisms follow: (1) IDEA at 20 U.S.C. §1415 (procedural safeguards-mediation and due process); (2) IDEA regulations at 34 C.F.R. §§300.151-300.153 (state complaints), 300.506 (mediation), and 300.507 et seq. (due process); (3) School Code at §§14/8.02a (mediation and due process) and 14/8.02b (expedited due process); and (4) special education regulations at 23 Ill.Admin.Code §§226.560 (State complaints), 226.570 (mediation), and Subpart G (due process). A board that would like to include IDEA should consult the board attorney.~~

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

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

Title II of the ADA of 1990 also includes website accessibility. Addressing website accessibility is complicated. Many entities addressing website accessibility use *Web Content Accessibility Guidelines (WCAG) 2.0*, a frequently cited accessibility standard that contains guidelines developed by a private group of accessibility experts. WCAG 2.0 is the standard the U.S. Dept. of Justice referenced in its recent Title II rulemaking; however, it is not adopted as the formal legal standard for public accommodation websites. While it is not adopted as the formal legal standard for public accommodation websites, it has been used in many consent decrees and settlement agreements. See [www.w3.org/TR/WCAG20/](http://www.w3.org/TR/WCAG20/).

<sup>5</sup> See fn 3's discussion of website accessibility above. To avoid allegations that a district violated Section 504 of the Rehabilitation Act of 1973 and Title II of the ADA of 1990, many attorneys suggest that school districts' websites meet the WCAG 2.0 guidelines. But see the discussion in fn 2 of policy 8:70, *Accommodating Individuals with Disabilities*.

5. Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. §2000e et seq.
6. Sexual harassment (State Officials and Employees Ethics Act, Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972) <sup>7</sup>
7. Breastfeeding accommodations for students, 105 ILCS 5/10-20.60 (P.A. 100-29, final citation pending)<sup>8</sup>
8. Bullying, 105 ILCS 5/27-23.7 <sup>9</sup>
9. Misuse of funds received for services to improve educational opportunities for educationally disadvantaged or deprived children <sup>10</sup>

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

§ 5 ILCS 230/20-5(a), amended by P.A. 100-536, requires governmental entities (including school districts) to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment. Unlike the powers granted by the Ill. General Assembly to municipalities, school boards govern by rules referred to as policies. 105 ILCS 5/10-20.5. Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board. 105 ILCS 5/10-20.

The policy must include, at a minimum:

- (1) a prohibition on sexual harassment;
- (2) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, Inspector General, or the Ill. Dept. of Human Rights;
- (3) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the State Officials and Employees Ethics Act, the Whistleblower Act (740 ILCS 1740), and the Ill. Human Rights Act (775 ILCS 5); and
- (4) the consequences:
  - (a) of a violation of the prohibition on sexual harassment; and
  - (b) for knowingly making a false report.

Id. See policy 5:10, Workplace Harassment Prohibited.

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

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

<sup>8</sup> 105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-29, CS 1-1-18, requires schools to implement the Ill. sex equity grievance procedures when processing student complaints about breastfeeding accommodations. Complainants must be informed that the board's decision may be appealed to the Regional Superintendent and, thereafter, to the State Superintendent. 23 Ill.Admin.Code §-200.40. Note: Certain claims brought under Sec. 10-20.60 (final citation pending) may also be covered by the anti-discrimination protections of Title IX; consult the board attorney for further advice. Guidance from U.S. Dept. of Education on Title IX requirements for pregnant and parenting students (June 2013) is available at: [www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf](http://www2.ed.gov/about/offices/list/ocr/docs/pregnancy.pdf).

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

10. Curriculum, instructional materials, and/or programs
11. Victims' Economic Security and Safety Act, 820 ILCS 180/
12. Illinois Equal Pay Act of 2003, 820 ILCS 112/
13. Provision of services to homeless students
14. Illinois Whistleblower Act, 740 ILCS 174/ 11
15. Misuse of genetic information (Illinois Genetic Information Privacy Act (GIPA), 410 ILCS 513/ and Titles I and II of the Genetic Information Nondiscrimination Act (GINA), 42 U.S.C. §2000ff et seq. 12
16. Employee Credit Privacy Act, 820 ILCS 70/ 13

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

**10** Parents/guardians of educationally disadvantaged children may sue a district for misuse of funds allocated by State law for the benefit of such children. *Noyola v. Bd. of Educ.*, 171 Ill.2d 121 (Ill. 1997); (affirming the appellate court's conclusion in *Noyola v. Bd. of Educ.*, 284 Ill.App.3d 128 (1st Dist. 1996) that parents/guardians may pursue a claim to enforce the requirements of the School Code but holding that the proper action for enforcement is by means of mandamus not an implied right of action).

**11** The Illinois Whistleblower Act (740 ILCS 174/) includes school districts in the definition of employer. It protects employees from employer retaliation for disclosing information to a government or law enforcement agency. Section 15 also contains language prohibiting employers from retaliating against employees who disclose information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information reveals a violation of a State or federal law, rule or regulation. ~~The Public Act also amends the Illinois Whistleblower Reward and Protection Act (740 ILCS 175/), includes school districts in its definition of State, includes school districts.~~ A strict interpretation of this language appears to allow school boards to collect civil penalties and costs against someone making a false claim. Before disciplining any employee, ~~boards should~~ thoroughly investigate the ramifications of ~~this Public Act's acts~~ in consultation with their attorney and liability insurance carriers.

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

GINA broadly defines genetic information to include information about an individual's genetic tests, their family members, and, among other things, the manifestation of a disease or disorder in the individual or the individual's family members. Information about an individual's or family member's age or gender is excluded from genetic information. Its remedies mirror those available under a Title VII of the Civil Rights Act claim: back pay, reinstatement, attorneys' fees and compensatory and punitive damages. Retaliation against an individual who brings a claim under GINA is also prohibited. Federal regulations are available at [www.eeoc.gov/policydocs/ganda\\_geneticinfo.html](http://www.eeoc.gov/policydocs/ganda_geneticinfo.html). An FAQ titled, *FAQs on the Genetic Information Nondiscrimination Act* is available at: [www.dof.gov/ebsa/faqs/faq-GINA.html](http://www.dof.gov/ebsa/faqs/faq-GINA.html).

The Ill. Genetic Information Protection Act (GIPA, 410 ILCS 513/, amended by P.A. 100-396, ~~eff. 1-1-18~~) also prohibits employers from making employment decisions on the basis of any employee's genetic testing information and from penalizing employees who do not want to disclose their genetic information as part of a workplace wellness program. GIPA includes the federal GINA's definition of genetic information and creates more stringent obligations on Ill. employers. While the federal GINA exempts small employers (those with less than 15 employees), Illinois' GIPA covers all employers, even those with one employee. GIPA also provides penalties for negligent and intentional mishandling of genetic information. Note that Title II of GINA does not preempt GIPA's greater protections to Illinois employees.

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

**13** 820 ILCS 70/. Unless a satisfactory credit history is an established bona fide occupational requirement of a particular position, an employer may not: (1) refuse to hire, discharge, or otherwise discriminate against an individual with respect to employment because of the individual's credit history or credit report; (2) inquire about an applicant's or employee's credit history; or (3) order or obtain an applicant's or employee's credit report from a consumer reporting agency. The Act identifies circumstances that permit a satisfactory credit history to be a job requirement, such as, when the position's duties include custody of or unsupervised access to cash or marketable assets valued at \$2,500 or more. A person who is injured by a violation of this Act may bring a civil action to obtain injunctive relief and/or damages. 820 ILCS 70/25. The court must award costs and reasonable attorneys' fees to a prevailing plaintiff.

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

#### Right to Pursue Other Remedies Not Impaired

The right of a person to prompt and equitable<sup>14</sup> resolution of a complaint filed ~~hereunder~~ <sup>hereunder</sup> ~~this policy~~ shall not be impaired by the person's pursuit of other remedies, e.g., criminal complaints, civil actions, etc. Use of this grievance procedure is not a prerequisite to the pursuit of other remedies and use of this grievance procedure does not extend any filing deadline related to the pursuit of other remedies. If a person is pursuing another remedy subject to a complaint under this policy, the District will continue with a simultaneous investigation under this policy.

#### Deadlines

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

#### Filing a Complaint

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

For any complaint alleging bullying and/or cyber-bullying of students, the Complaint Manager shall process and review the complaint according to Board policy 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*, in addition to any response required by this policy. For any complaint alleging sexual harassment or other violation of Board policy 5:20, *Workplace Harassment Prohibited*, the Complaint Manager shall process and review the complaint according to that policy, in addition to any response required by this policy 2:260, *Uniform Grievance Procedure*.

#### Investigation

The Complaint Manager will investigate the complaint or appoint a qualified person to undertake the investigation on his or her behalf.<sup>16</sup> The Complaint Manager shall ensure both parties have an equal

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<sup>14</sup> The phrase "prompt and equitable resolution" comes from Title IX implementing regulation 34 C.F.R. §106.51(b), which requires schools to "adopt and publish grievance procedures providing for prompt and equitable resolution of student and employee complaints" of sex discrimination.

<sup>15</sup> This is a best practice.

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

opportunity to present evidence during an investigation. If the Complainant is a student under 18 years of age, the Complaint Manager will notify his or her parent(s)/guardian(s) that they may attend any investigatory meetings in which their child is involved. The complaint and identity of the Complainant will not be disclosed except: (1) as required by law or this policy, (2) as necessary to fully investigate the complaint, or (3) as authorized by the Complainant.

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

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

The Superintendent will keep the Board informed of all complaints.

If a complaint ~~of sexual harassment~~ contains allegations involving the Superintendent, the written report shall be filed directly with the Board, which will make a decision in accordance with paragraph four of the following section of this policy.

#### Decision and Appeal

Within five school business days after receiving the Complaint Manager's report, the Superintendent shall mail his or her written decision to the Complainant and the accused by first class U.S. mail as well as to the Complaint Manager. All decisions shall be based upon the *preponderance of evidence* standard. 17

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

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

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

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

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

This policy shall not be construed to create an independent right to a hearing before the Superintendent or Board. The failure to strictly follow the timelines in this grievance procedure shall not prejudice any party.<sup>18</sup>

#### Appointing a Nondiscrimination Coordinator and Complaint Managers <sup>19</sup>

The Superintendent shall appoint a Nondiscrimination Coordinator to manage the District's efforts to provide equal opportunity employment and educational opportunities and prohibit the harassment of employees, students, and others. The Nondiscrimination Coordinator also serves as the District's Title IX Coordinator.<sup>20</sup>

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

The Superintendent shall insert into this policy and keep current the names, addresses, and telephone numbers of the Nondiscrimination Coordinator and the Complaint Managers.<sup>21</sup>

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

<sup>18</sup> The Ill. sex equity regulations require districts to have "specific timelines for completion of each step and rendering of a written decision, and shall provide for final appeal of grievance decisions made at the system level to the system's governing board." 23 Ill.Admin.Code §200.40. To avoid arguments over these timelines, this sample policy provides that the failure to strictly follow the timelines does not prejudice any party. The grievance procedure is worthless if complaints are not thoroughly and promptly investigated.

<sup>19</sup> Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. OCR prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (a1) a *Dear Colleague Letter on Title IX Coordinators*; (a2) a *Letter to Title IX Coordinators* that provides them with more information about their role; and (a3) a *Title IX Resource Guide* that includes an overview of Title IX's requirements with respect to several key issues. See [www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html](http://www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html).

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

<sup>20</sup> Best practice is that throughout the district's board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

<sup>21</sup> The board may include the following option to address publication of such contact information:

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

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



**Nondiscrimination Coordinator:**

Lori Lopez  
Name

Joel Martin

Address

Email

Telephone

**Complaint Managers:**

Joel Martin  
Name

Letanne Frost (18-19)  
Name

martin@dbf.org  
Address  
Email

frost@dbf.org  
Address  
Email

Telephone

Telephone

**LEGAL REF.:**

- Age Discrimination in Employment Act, 29 U.S.C. §621 et seq.
- Americans With Disabilities Act, 42 U.S.C. §12101 et seq.
- Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. §2000e et seq.
- Equal Pay Act, 29 U.S.C. §206(d).
- Genetic Information Nondiscrimination Act, 42 U.S.C. §2000ff et seq.
- Immigration Reform and Control Act, 8 U.S.C. §1324a et seq.
- McKinney-Vento Homeless Assistance Act, 42 U.S.C. §11431 et seq.
- Rehabilitation Act of 1973, 29 U.S.C. §791 et seq.
- Title VI of the Civil Rights Act, 42 U.S.C. §2000d et seq.
- Title IX of the Education Amendments, 20 U.S.C. §1681 et seq.
- State Officials and Employees Ethics Act, 5 ILCS 430/70-5(a).
- 105 ILCS 5/2-3.8, 5/3-10, 5/10-20.7a, 5/10-20.60 (~~P.A. 100-29, final citation pending~~), 5/10-22.5, 5/22-19, 5/24-4, 5/27-1, 5/27-23.7, and 45/1-15.
- Illinois Genetic Information Privacy Act, 410 ILCS 513/.
- Illinois Whistleblower Act, 740 ILCS 174/.
- Illinois Human Rights Act, 775 ILCS 5/.
- Victims' Economic Security and Safety Act, 820 ILCS 180/, 56 Ill.Admin.Code Part 280.
- Equal Pay Act of 2003, 820 ILCS 112/.
- Employee Credit Privacy Act, 820 ILCS 70/.
- 23 Ill.Admin.Code §§1.240 and 200.40.

**CROSS REF:**

~~2:102 (Education (No. 30)), 5:10 (Equal Employment Opportunity and Minority Recruitment), 5:20 (Workplace Harassment Prohibited), 5:30 (Hiring Process and Criteria), 6:120 (Education of Children with Disabilities), 6:140 (Education of Homeless Children), 6:170 (Title I Programs), 6:260 (Complaints About Curriculum, Instructional Materials, and Programs), 7:10 (Equal Educational Opportunities), 7:15 (Student and Family Privacy Rights), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:310 (Restrictions on Publications: Elementary Schools), 7:315 (Restrictions on Publications: High Schools), 8:70 (Accommodating Individuals with Disabilities), 8:95 (Parental Involvement), 8:110 (Public Suggestions and Concerns)~~

## Operational Services

### Identity Protection <sup>1</sup>

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

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

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

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

~~1 The Identity Protection Act, 5 ILCS 179/, requires that this subject matter be covered in policy and controls its content. The Act places greater limits on the use of SSNs than federal law. The Act defines identity protection policy as "any policy created to protect social security numbers from unauthorized disclosure." Social security number is not capitalized in the Identity Protection Act, 5 ILCS 179/5. Another State law, the Personal Information Protection Act, 815 ILCS 530/, amended by P.A. 99-503, contains mandates for government agencies and local governments and may apply to school districts. This Act contains requirements for: (1) notifying an owner of a security breach, and (2) disposing of material containing personal information (defined as the owner's name combined with SSN, driver's license number or State identification card number, and financial account information, including without limitation, credit or debit card numbers).~~

~~Much of a district's collection, storage, use, and disclosure of social security numbers applies to employee records only. But limited exceptions may exist where a school district may need to ask students or their parents/guardians to provide social security numbers, and any collection and retention of student's social security numbers must also be in accordance with this policy.~~

~~Consult the board attorney before adoption of this policy. Districts may choose to provide or implement more protections than the statutory requirements outlined in this sample policy. Technology and best practices are constantly changing. While the laws that apply to this policy govern current management of sensitive information, best practices may outpace the law's ability to keep up. See also fn19 to sample policy 2:250, Access to District Public Records, detailing the preservation requirements of the Local Records Act (50 ILCS 205/3-), the Family Educational Rights and Privacy Act (20 U.S.C. §1232g), and the Ill. School Student Records Act (105 ILCS 10/), and litigation holds or document preservation requirements pursuant to Federal Rules of Civil Procedure (Rules 16 and 26).~~

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

~~Another State law, the Personal Information Protection Act (PIPA, 815 ILCS 530/ amended by P.A. 99-503) contains mandates for government agencies and local governments. PIPA does not specifically identify school districts as local governments to which the law applies. Consequently, PIPA's application to school districts is questionable because the Ill. Constitution, Article VII, Section 1, expressly exempts school districts from units of local government. PIPA contains requirements for: (1) notifying an owner of a security breach, and (2) disposing of material containing personal information (defined as the owner's name combined with SSN, driver's license number or State identification card number, and financial account information, including without limitation, credit or debit card numbers). Consult with the board attorney for further advice on the application of PIPA. See fn 4, below for more information about options to include PIPA requirements in this sample policy.~~

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

**Commented [DJ1]:** In response to some Ill. Council of School Attorneys' opinions regarding the questionable application of the Personal Information Protection Act (PIPA, 815 ILCS 530/) to school districts, PIPA requirements are moved to fn 4 as an option for consideration by boards with their attorneys.

1. All employees having access to social security numbers in the course of performing their duties shall be trained to protect the confidentiality of social security numbers. Training should include instructions on the proper handling of information containing social security numbers from the time of collection through the destruction of the information.
2. Only employees who are required to use or handle information or documents that contain social security numbers shall have access to such information or documents.
3. Social security numbers requested from an individual shall be provided in a manner that makes the social security number easily redacted if the record is required to be released as part of a public records request.
4. When collecting a social security number or upon request by an individual, a statement of the purpose(s) for which the District is collecting and using the social security number shall be provided.<sup>5</sup> The stated reason for collection of the social security number must be relevant to the documented purpose.<sup>6</sup>
- ~~5. Notification to an individual as required by 815 ILCS 530/12 whenever his or her personal information was acquired by an unauthorized person; *personal information* means either:
 
  - a. ~~An individual's first name or first initial and last name in combination with any one or more of his or her (i) social security number, (ii) driver's license number or State identification card number, (iii) financial account information (with any required security codes or passwords), (iv) medical information, (v) health insurance information, and/or (vi) unique biometric data or other unique physical or digital representation of biometric~~~~

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

~~<sup>3</sup> The Identity Protection Act, 5 ILCS 179/35(a) IPA requires items #1-4 to be covered in a policy. 5 ILCS 179/3.5(a).~~

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

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

- ~~1. Written or electronic notification to an individual as required by 815 ILCS 530/12 whenever his or her personal information was acquired by an unauthorized person; *personal information* means either:
  - ~~a. An individual's first name or first initial and last name in combination with any one or more of his or her (i) social security number, (ii) driver's license number or State identification card number, (iii) financial account information (with any required security codes or passwords), (iv) medical information, (v) health insurance information, and/or (vi) unique biometric data or other unique physical or digital representation of biometric data, when either the name or the data elements are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the name or data elements have been acquired through the breach of security; or~~
  - ~~b. An individual's username or email address, in combination with a password or security question and answer that would permit access to an online account, when either the username or email address or password or security question and answer are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the data elements have been obtained through the breach of security.~~~~
- ~~2. Disposal of materials containing personal information in a manner that renders the personal information unreadable, unusable, and undecipherable; *personal information* has the meaning stated in #1, above.~~
- ~~3. Notification, no later than 45 days of the discovery of a security breach, to the Illinois Attorney General:
  - ~~a. If the District suffers a breach of more than 250 Illinois residents; or~~
  - ~~b. When the District provides notice as required in #1, above.~~~~

~~<sup>5</sup> See 4:15-E2, *Exhibit - Statement of Purpose for Collection of Social Security Numbers.*~~

~~<sup>6</sup> See 4:15-E2, *Statement of Purpose for Collection of Social Security Numbers.*~~

- ~~data, when either the name or the data elements are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the name or data elements have been acquired through the breach of security; or~~
- ~~b. An individual's username or email address, in combination with a password or security question and answer that would permit access to an online account, when either the username or email address or password or security question and answer are not encrypted or redacted or are encrypted or redacted but the keys to unencrypt or unredact or otherwise read the data elements have been obtained through the breach of security.<sup>7</sup>~~
- ~~6. Disposal of materials containing personal information in a manner that renders the personal information unreadable, unusable, and undecipherable; *personal information* has the meaning stated in #5, above.~~
- ~~7. Notification, within 45 days of the discovery of a security breach, to the Illinois Attorney General:~~
- ~~a. If the District suffers a breach of more than 250 Illinois residents; or~~
- ~~b. When the District provides notice as required in #5, above.<sup>8</sup>~~
- ~~8.5 All employees must be advised of this policy's existence, and a copy of the policy must be made available to each employee. The policy must also be made available to any member of the public, upon request.<sup>9</sup>~~
- ~~6. If this policy is amended, employees will be advised of the existence of the amended policy and a copy of the amended policy will be made available to each employee.<sup>10</sup>~~

No District employee shall collect, store, use, or disclose an individual's social security number unless specifically authorized by the Superintendent.<sup>11</sup> This policy shall not be interpreted as a guarantee of the confidentiality of social security numbers and/or other personal information. The District will use best efforts to comply with this policy, but this policy should not be construed to convey any rights to protection of information not otherwise afforded by law.

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

~~7-Items #5 and #6 are not required to be in policy. They are mandates contained in the Personal Information Protection Act; see the second paragraph of ¶n 1. They are included in the sample policy because: (1) they are consistent with public policy, and (2) if the Act applies to school districts, so will its section allowing the Attorney General to fine any person up to \$100 for each violation of the disposal requirements for materials containing personal information. 815 ILCS 530/40, amended by P.A. 99-503.~~

~~8 815 ILCS 530/42, (c), amended by P.A. 99-503. Notification sooner is preferred, if it can be accomplished.~~

~~9 Item #8 is [Items #5 and #6 are not required to be in policy but districts are required to perform the described action ((s). 5 ILCS 179/35(b))]. These compliance measures are covered in administrative procedure 4:15-AP, Protecting the Privacy of Social Security Numbers.~~

~~10 Optional. See ¶n 6 above.~~

~~11 This sentence is optional. Its intent is to inform employees of the need to have proper authority before collecting, storing, using, or disclosing SSNs. A board may attach a sanction to the paragraph by adding the following option:~~

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

LEGAL REF.: 5 ILCS 179/, Identity Protection Act.  
50 ILCS 205/3, Local Records Act.  
105 ILCS 10/, Illinois School Student Records Act.  
~~815 ILCS 530/, Personal Information Protection Act.~~

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

### Operational Services

#### Incurring Debt

CSBO and/or Asst. Business Manager

The Superintendent shall provide early notice to the School Board of the District's need to borrow money. The Superintendent or designee shall prepare all documents and notices necessary for the Board, at its discretion, to: (1) issue State Aid Anticipation Certificates,<sup>3</sup> tax anticipation warrants,<sup>4</sup> working cash fund bonds,<sup>5</sup> bonds,<sup>6</sup> notes,<sup>7</sup> and other evidence of indebtedness,<sup>8</sup> or (2) establish a line of credit with a bank or other financial institution.<sup>9</sup> The Superintendent shall notify the State Board of Education before the District issues any form of long-term or short-term debt that will result in outstanding debt that exceeds 75% of the debt limit specified in State law. <sup>10</sup>

debt certificates

CSBO +/or AB.M

#### Bond Issue Obligations 11

In connection with the Board's issuance of bonds, the Superintendent shall be responsible for ensuring the District's compliance with federal securities laws, including the anti-fraud provisions of

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<sup>1</sup> State law controls this policy's content. School districts are subject to a statutory debt limitation (105 ILCS 5/19-1(a)); other provisions in 5/19-1 contain exceptions. Not all forms of indebtedness are subject to the statutory debt limitations. Before incurring any debt, the board must be certain that the debt will be within the district's debt limitation.

<sup>2</sup> Boards that employ business managers may want to substitute "Business Manager", "Chief School Business Official", or another locally-equivalent title for "Superintendent or designee" and "Superintendent" as they appear throughout this policy; the business manager most commonly performs the duties described in this policy.

<sup>3</sup> 50 ILCS 420/1 et seq. and 105 ILCS 5/18-18.

<sup>4</sup> 105 ILCS 5/17-16.

<sup>5</sup> 105 ILCS 5/20-2, 5/20-4, and 5/20-5; 30 ILCS 305/2.

<sup>6</sup> 105 ILCS 5/19-1 et seq.; 30 ILCS 350/.

<sup>7</sup> 50 ILCS 420/0.01 et seq. A district may borrow money and issue bonds for the purposes stated in 105 ILCS 5/19-3, provided the board properly adopted an election referendum and subsequently the voters approved the proposition. <sup>10</sup> 105 ILCS 5/28-2). Districts have the authority to issue bonds for certain purposes without a referendum, e.g., School Fire Prevention and Safety Bonds, Working Cash Fund Bonds, Funding Bonds, and Insurance Reserve Bonds.

<sup>8</sup> Other types of indebtedness include funding bonds and refunding bonds (105 ILCS 5/19-1 et seq.), as well as debt certificates and alternate bonds authorized by the Local Government Debt Reform Act (30 ILCS 350/).

<sup>9</sup> 105 ILCS 5/17-17.

<sup>10</sup> 105 ILCS 5/19-1.

<sup>11</sup> Optional. This subhead is offered for boards that want to: (1) expressly address their obligations to comply with federal securities laws; and (2) authorize the creation of written procedures to protect the status of tax-exempt (or otherwise tax-advantaged) bonds issued by the board. As a matter of best practice and to reduce potential future liabilities, many attorneys recommend that board policy address these obligations. Consult the board attorney and/or bond counsel for guidance.

The Internal Revenue Service strongly encourages, but does not currently require, issuers of tax-exempt bonds to establish written post-issuance compliance monitoring procedures. For guidance regarding the recommended content of such procedures, see IRS Publication 4079, Tax-Exempt Governmental Bonds, at: www.irs.gov/pub/irs-pdf/p4079.pdf. Such procedures may be included in a written bond resolution for a specific bond issue, and/or they may be established more generally. Consult the board attorney and/or bond counsel regarding the establishment of such procedures for tax-exempt bonds.

If a board does not accept this subhead, delete the Administrative Procedure Reference and the following Legal References: Securities Act of 1933, 15 U.S.C. §77a et seq.; Securities Exchange Act of 1934, 15 U.S.C. §78a et seq.; and 17 C.F.R. §240.15c2-12.

the Securities Act of 1933, as amended<sup>12</sup> and, if applicable, the continuing disclosure obligations under Rule 15c2-12 of the Securities Exchange Act of 1934, as amended.<sup>13</sup>

Additionally, in connection with the Board's issuance of bonds, the interest on which is excludable from gross income for federal income tax purposes, or which enable the District or bond holder to receive other federal tax benefits, the Board authorizes the Superintendent to establish written procedures for post-issuance compliance monitoring for such bonds to protect their tax-exempt (or tax-advantaged) status.

The Board <sup>will</sup> contract with outside professionals, such as bond counsel and/or a qualified financial consulting firm, to assist it in meeting the requirements of this subsection.<sup>14</sup>

*i.e. Raymond James*

*CSRO and Asst. B.M.*

**LEGAL REF.:** Securities Act of 1933, 15 U.S.C. §77a et seq.  
Securities Exchange Act of 1934, 15 U.S.C. §78a et seq.  
17 C.F.R. §240.15c2-12.  
Bond Authorization Act, 30 ILCS 305/2, and  
Bond Issue Notification Act, 30 ILCS 352/1 et seq.  
Local Government Debt Reform Act, 30 ILCS 350/.  
Tax Anticipation Note Act, 50 ILCS 420/.  
105 ILCS 5/17-16, 5/17-17, 5/18-18, and 5/19-1 et seq.

**CROSS REF.:** 4:10 (Fiscal and Business Management)

**ADMIN. PROC.:** 4:40-AP (Preparing and Updating Disclosures)

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

<sup>12</sup> 15 U.S.C. §77g.

<sup>13</sup> 17 C.F.R. §240.15c2-12. See 4:40-AP, *Preparing and Updating Disclosures*, for a detailed set of sample procedures designed to facilitate a district's compliance with disclosure requirements of federal securities laws.

<sup>14</sup> Delete the last paragraph of this subsection if the board does not want to include a sentence in this policy that addresses the use of outside professionals for assistance with compliance. Boards that regularly utilize outside professionals to assist them in meeting bond disclosure requirements may want to include this language to memorialize their current practice. Contracts for the services of individuals possessing a high degree of professional skill, such as attorneys and financial consultants, are exempt from competitive bidding requirements. 105 ILCS 5/10-20.21(a)(i).



## Operational Services

### Accounting and Audits <sup>1</sup>

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

### Annual Audit <sup>2</sup>

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

### Annual Financial Report <sup>3</sup>

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

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

<sup>2</sup> Audit requirements are found in 105 ILCS 5/3-7 and 5/3-15.1, and 23 Ill.Admin.Code §100.110. The federal Single Audit Act adds audit requirements for federal programs. (31 U.S.C. §7301 et seq.)

Use this alternative for districts in suburban Cook County: replace "Regional Superintendent of Schools" with "appropriate Intermediate Service Center." Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." P.A. 96-093 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.

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

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

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

#### Inventories <sup>4</sup>

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

#### Disposition of District Property <sup>5</sup>

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

#### Taxable Fringe Benefits <sup>6</sup>

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

#### Controls for Revolving Funds and Petty Cash <sup>7</sup>

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

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

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

*The recipient (through either sale or donation) of any discarded school bus must immediately: (1) remove, cover, or conceal the "SCHOOL BUS" signs and any other markings or words indicating the vehicle is a school bus; (2) render inoperable or remove entirely the stop signal arm and flashing signal system; and (3) paint the school bus a different color than those under Section 12-301 of the Illinois Vehicle Code. 623 ILCS 5/12-305(c), added by P.A. 100-277, eff. 1-1-18.*

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

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

description of their intended purpose. The Superintendent or designee shall include checks written to reimburse revolving funds on the Board's monthly listing of bills indicating the recipient and including an explanation.

#### Control Requirements for Checks <sup>8</sup>

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

#### Internal Controls <sup>9</sup>

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

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

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

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

A board must comply with State law requirements concerning the use of facsimile or electronic signatures on checks. The Secretary of State, Index Department, maintains certified manual signatures of officers authorized to sign checks, (Uniform Facsimile Signature of Public Officials Act, 30 ILCS 320<sup>4</sup>). Electronic records and signatures are governed by the Electronic Commerce Security Act, (5 ILCS 175<sup>5</sup>). Attorneys disagree about the applicability of these laws to school districts.

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

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

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

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

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

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

## Operational Services

### Facility Management and Building Programs<sup>1</sup>

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

#### Standards for Managing Buildings and Grounds

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

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

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

The federal rules implementing the Americans with Disabilities Act of 1990 (ADA, 42 U.S.C. §12101 et seq.) prohibit discrimination on the basis of disability in services and facilities. (28 C.F.R. Parts 35 and 36). The 2010 ADA Standards for Accessible Design (28 C.F.R. Part 36, Appendix) are available from a link on the ADA home page, [www.ada.gov/](http://www.ada.gov/). Consult the board attorney about how these standards apply to alterations and new construction.

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

105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-163, eff. 1-1-18, requires school districts to make feminine hygiene products (defined as tampons and sanitary napkins for use in connection with the menstrual cycle) available at no cost to students in the bathrooms of school buildings serving students in grades 6 through 12. Note: The statute does not delineate between types of bathrooms (student, staff, girls, boys, unisex, etc.). Consult with the board attorney about implementing this law.

<sup>2</sup> 105 ILCS 5/3-14.20 and 5/3-14.21.

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

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

#### Standards for Green Cleaning 4

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

#### Standards for Facility Construction and Building Programs 5

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

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

1. Integrate facilities planning with other aspects of planning and goal-setting.
2. Base educational specifications for school buildings on identifiable student needs.
3. Design buildings for sufficient flexibility to permit new or modified programs.
4. Design buildings for maximum potential for community use.

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<sup>4</sup> Required by the Green Cleaning School Act (105 ILCS 140) and Green Cleaning for Elementary and Secondary Schools (23 Ill.Admin.Code Part 2800). The Ill. Green Government Coordinating Council established *Guidelines and Specifications* which state: "While not mandatory, schools should implement the practices set forth in the Recommendations section of these guidelines where applicable and appropriate." See *Guidelines and Specifications* at: [www.illinois.gov/gov/green/Documents/Illinois%20Green%20Cleaning%20Guidelines%20and%20Specifications.pdf](http://www.illinois.gov/gov/green/Documents/Illinois%20Green%20Cleaning%20Guidelines%20and%20Specifications.pdf).

<sup>5</sup> The inclusion and identification of the facility goals listed in the second paragraph are at the board's discretion.

105 ILCS 5/2-3.12 and 23 Ill.Admin.Code Part 180 contain the School building code and Health/Life and Safety Code for Public Schools, respectively. Among their mandates are the decennial safety survey report, (105 ILCS 5/2-3.1-2(b); 23 Ill.Admin.Code §180.310). After 1-1-15, all "new school building construction" must include a storm shelter that meets or exceeds the ICC/ANSI Standard for the Design and Construction of Storm Shelters (ICC-500) published jointly by the International Code Council and the National Storm Shelter Association, (105 ILCS 5/2-3.12(e-5); 23 Ill.Admin.Code §180.60(b)(3), ~~amended at 40 Ill. Reg. 3059~~). Any facility project for which the design contract is executed after 7-1-16 must meet standards of the 2015 International Building Code and its subcodes, (23 Ill.Admin.Code 180.60(a), ~~amended at 40 Ill. Reg. 3059~~).

The Ill. Environmental Barriers Act (410 ILCS 25) and the Ill. Accessibility Code (71 Ill.Admin.Code Part 400) ensure that "all applicable buildings and facilities in the State of Illinois, is so designed, constructed, and/or altered to assure the safety and welfare of all members of society and to be readily accessible to, and usable by, environmentally limited persons." (71 Ill.Admin.Code §400.110(a)). Note: The Ill. Environmental Barriers Act, as amended by P.A. 99-582, ~~off. 1-1-17~~, deleted the term *environmentally limited person*, which until then had been defined in 410 ILCS 25/3 as "a person with a disability or condition who is restricted in the use of the built environment." Press boxes constructed on school property do not have to comply with the Accessibility Code if the press boxes are in bleachers that have points of entry at only one level, and the aggregate area of the press box is no more than 300 square feet, (105 ILCS 5/10-20.51; 23 Ill.Admin.Code 180.60(b)(4), ~~amended at 40 Ill. Reg. 3059~~).

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

A district may levy a tax for "fire prevention, safety, energy conservation, disabled accessibility, school security, and specified repair purposes." (105 ILCS 5/17-2.11). An expedited process may be available in emergency situations. (Id.). A board may, subject to certain notice requirements, transfer surplus life safety taxes and interest earnings on them to the Operations and Maintenance Fund for building repair work until June 30, 2019, (Id., amended by P.A. 99-713).

The Green Buildings Act requires all new State-funded building construction and major renovation projects to meet specified environmental requirements. (20 ILCS 3130). Waivers may be granted by the Capital Development Board in certain situations. (Id.) ~~20 ILCS 3130/15(e)~~. For environmental impact laws, see policy 4:160, *Environmental Quality of Buildings and Grounds*.

5. Meet or exceed all safety requirements.
6. Meet requirements on the accessibility of school facilities to disabled persons as specified in State and federal law.
7. Provide for low maintenance costs, energy efficiency, and minimal environmental impact.

#### **Naming Buildings and Facilities** <sup>6</sup>

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

**LEGAL REF.:** 42 U.S.C. §12101 et seq., Americans with Disabilities Act of 1990, implemented by 28 C.F.R. Parts 35 and 36.  
 20 ILCS 3130/, Green Buildings Act.  
 105 ILCS 5/2-3.12, 5/10-20.49, 5/10-22.36, 5/10-20.60 (P.A. 100-163, final citation pending), and 5/17-2.11.  
105 ILCS 140/, Green Cleaning Schools Act, and  
105 ILCS 230/, School Construction Law.  
 410 ILCS 25/, Environmental Barriers Act.  
 820 ILCS 130/, Prevailing Wage Act.  
 23 Ill.Admin.Code Part 151, School Construction Program; Part 180, Health/Life Safety Code for Public Schools; and Part 2800, Green Cleaning for Elementary and Secondary Schools.  
 71 Ill.Admin.Code Part 400, Ill. Accessibility Code.

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

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<sup>6</sup> This section is optional and its contents are at the board's discretion.

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

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

### Operational Services

#### Safety 1

##### Safety and Security

All District operations, including the education program, shall be conducted in a manner that will promote the safety and security of everyone on District property or at a District event.<sup>3</sup> The Superintendent or designee shall develop, implement, and maintain a comprehensive safety and security plan that includes, without limitation:

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

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

*The 5 footnotes are not intended to be part of the adopted policy; they should be removed before the policy is adopted.*

<sup>1</sup> State law requires a policy on several topics in this policy (see 26 ILCS 7, 8 and 9) and otherwise contains this policy's content. Topics previously assigned to this code number were moved in May 2014 and placed in 4:100, Insurance Management and 4:175, Corrected Child Sex Offender; Screening; Notifications.

<sup>2</sup> This title and statement should be discussed and stated accordingly before board adoption. Ask: what effect or impact will this statement have on the students and the community?

<sup>3</sup> *The term emergency operations and crisis response plan is used because federal agencies refer to school emergency operations plans and the School Safety Act (26 ILCS 138) refers to emergency and crisis response plans.*

See administrative procedure 4:170-AP1, Comprehensive Safety and Security Plan. This procedure follows the recommendations in the "Guide for Developing High-Quality School Emergency Operations Plans," produced by a collaboration of federal agencies in 2013, available at: [www.ed.gov/docs/EOPMS\\_K-12\\_Guide\\_508.pdf](http://www.ed.gov/docs/EOPMS_K-12_Guide_508.pdf). The Guide informs schools what they need to do, not what to do. It recommends a process for developing, implementing, and continually refining a school emergency operations plan as well as a discussion of its form, function, and content.

*The Illinois State Board of Education (ISBE) maintains a comprehensive website on school emergency and crisis response planning in compliance with the School Safety Act and other laws of the Office of the State Police Marshal and the Illinois State Board of Education (26 ILCS 138). For more information, visit [www.isbe.net/Pages/School-Security-and-Crisis-Response-Plan-Guide.aspx](http://www.isbe.net/Pages/School-Security-and-Crisis-Response-Plan-Guide.aspx). ISBE's website includes a Sample School Emergency Operations Plan which aligns with the federal Guide for Developing High-Quality School Emergency Operations Plans.*

<sup>4</sup> Required by 26 ILCS 12B-20(3) and 26 ILCS 5/10-20.14(c) for all students. See 4:110-AP9, School Bus Safety Rules.

<sup>5</sup> 26 ILCS 5/10-20.28. Consider discussing with local law enforcement what its preference would be and encourage staff and students to follow the recommendation. A wave of 911 cell phone calls can jam phone lines. Student use of cell phones is addressed in 7:190, Student Behavior.



### School Safety Drill Plan 6

During every academic year, each school building that houses school children shall conduct, at a minimum, each of the following in accordance with the School Safety Drill Act, (105 ILCS 128/3):

1. Three school evacuation drills to address and prepare students and school personnel for fire incidents. One of these three drills shall require the participation of the local fire department or fireboat.
2. One bus evacuation drill.
3. One severe weather and shelter-in-place drill to address and prepare students and school personnel for possible tornado incidents.
4. One law enforcement drill to address a school shooting incident.

Commentary [MMS]: Added to more accurately reflect statute requirements.

### Annual Review

The Board or its designee will annually review each school building's emergency operations and crisis response plan(s), protocols, and procedures, as well as each building's compliance with the school safety drill plan. This annual review shall be in accordance with the School Safety Drill Act (105 ILCS 128/3) and the Joint Rules of the Office of the State Fire Marshal and the Illinois State Board of Education (29 ILCS Admin Code Part 1500, 7).

Commentary [MMS]: Moved up to clearly indicate that the Annual Review outlined is related to the emergency operations or crisis response plan(s) and to the school safety drill plan.

### Automated External Defibrillator (AED) 8

The Superintendent or designee shall implement a written plan for responding to medical emergencies at the District's physical fitness facilities in accordance with the Fitness Facility Medical Emergency

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625 ILCS 5/12-610.1(a) prohibits wireless telephone use at any time while operating a motor vehicle on a roadway in a school speed zone except for: (1) highway construction or maintenance workers within their work zones; (2) any one for emergency purposes; (3) law enforcement officers or emergency responders performing their duties; (4) a person using a wireless telephone in voice-operated mode with or without use of a hands-free kit; and (5) a person with technology that uses a single button to initiate or terminate a voice communication. (e.g., HandsFreeLink®). 625 ILCS 5/12-613-1 State cell phone use by school bus drivers; see policy 4:110, Transportation.

6 Each of the listed drills is required by the School Safety Drill Act, 105 ILCS 128/3. Each drill's requirements are comprehensively covered in 4:170-AP1, Comprehensive Safety and Security Plan. For information about documenting minimum compliance with the School Safety Drill Act, see [www.ilsb.org/School-Emergency-and-Crisis-Response-Plan-Guide.aspx](http://www.ilsb.org/School-Emergency-and-Crisis-Response-Plan-Guide.aspx).

105 ILCS 5/2-9.12(2) authorizes the Ill. State Fire Marshal or a qualified fire official to whom the Ill. State Fire Marshal has delegated his or her authority to conduct an annual fire safety inspection of each school building, provided the inspection is conducted with the regional superintendent. See also 105 ILCS 5/3-14.11(a) and 29 ILCS Admin Code §150.300(b). To effectively implement this law and ensure the education of students in the district is not disrupted, school officials should discuss with the State Fire Marshal and regional superintendent whether written notice may be provided to the principal requesting to schedule a mutually agreed upon time.

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

8 Each indoor and outdoor physical fitness facility serving at least 100 individuals must "adopt and implement a written plan for responding to medical emergencies that occur at the facility during the time that the facility is open for use by its members or by the public." The facility must file the plan with the Ill. Dept. of Public Health (IDPH). In addition, each indoor facility must have at least one AED on the premises, and each outdoor facility must house an AED in a building, if any, that is within 300 feet of the outdoor facility. See the statute and administrative rules for the other numerous mandates: 210 ILCS 74/, (Physical Fitness Facility Medical Emergency Preparedness Act); 77 ILCS Admin Code Part 327. Also see 4:170-AP6, Plan for Responding to a Medical Emergency at a Physical Fitness Facility with an AED.

Preparedness Act and shall file a copy of the plan with the Ill. Dept. of Public Health (IDPH). The plan shall provide for at least one automated external defibrillator (AED) to be available at every physical fitness facility on the premises according to State law requirements.

The District shall have an AED on site, as well as a trained AED user: (1) on staff during staffed business hours; and (2) available during activities or events sponsored and conducted or supervised by the District. The Superintendent or designee shall ensure that every AED on the District's premises is properly tested and maintained in accordance with rules developed by the IDPH. This policy does not create an obligation to use an AED nor is it intended to create any expectation that an AED will be present or a trained person will be present and/or able to use an AED.

#### Carbon Monoxide Alarms 11

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

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

#### Soccer Goal Safety 12

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

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§ 77 Ill. Admin. Code 1327.600(6), (7).

10 210 ILCS 141.15(c); 77 Ill. Admin. Code 1327.200.

11 105 ILCS 9/10-20.5(f), added by P.A. 99-470 and amended by P.A. 99-552. Carbon monoxide detector and detector means a device having a sensor that responds to carbon monoxide gas and that is connected to an alarm control unit and approved in accordance with rules adopted by the Ill. State Fire Marshal. Approved carbon monoxide alarm or alarm means a carbon monoxide alarm that complies with all the requirements of the rules and regulations of the Ill. State Fire Marshal, bears the label of a nationally recognized testing laboratory, and complies with the most recent standards of the Underwriters Laboratories or the Canadian Standard Association. (430 ILCS 135/5).

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

12 Includes this section only if the school district owns and controls a movable soccer goal (Movable Soccer Goal Safety Act, state Statute Law, 430 ILCS 144). The Act requires: (1) organizations that own and control a movable soccer goal to create a soccer goal safety and education policy that outlines how the organization will specifically address the safety issues associated with movable soccer goals; and (2) the Ill. Dept. of Public Health (IDPH) to provide technical assistance materials, which are available at: <http://www.idph.state.il.us/health/sportsandrecreation/soccergoal-safety>.

**Unsafe School Choice Option 13**

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

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

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

**Lead Testing in Water 14**

The Superintendent or designee shall implement testing for lead in each source of drinking water in school buildings in accordance with the Illinois Plumbing License Law and guidelines published by the IDPH. The Superintendent or designee shall notify parent(s)/guardian(s) about the sampling results from their child(ren)'s respective school buildings. 15

*The following are not intended to be part of the adopted policy; they should be removed unless the policy is adopted.*

**13** This topic must be covered in local policy. (105 ILCS 5/10-21.5c). See also 20 U.S.C. §7912. IDEA maintains a list of persistently dangerous schools. Districts having only one school may substitute the following for this paragraph:

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

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

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

**14** 2015 ILCS 520/25.5, added by P.A. 99-072 and amended by P.A. 100-064, requires that each source of potable water in school buildings constructed on or before 1-1-00, which may be occupied by more than 10 children in grades K-12 through 12, be tested for lead. Testing for buildings constructed since 1-1-00 must be completed by 12-31-17. 2015 ILCS 520/25.5(b)(2). Testing for buildings constructed between 1-1-01 and 1-1-00 must be completed by 12-31-16. By 6-30-19, the IDPH will determine whether it is necessary and appropriate to require testing for buildings constructed after 1-1-00. 2015 ILCS 520/25.5(b).

Guides may be available on water tests listed for the prevention, safety, emergency, and individual property purposes for sampling lead in drinking water in schools and for the purchase and collection of the lead levels in the drinking water supply. 2015 ILCS 520/25.5(b)(1)(iv), amended by P.A. 99-072.

**15** 2015 ILCS 520/25.5(b) requires the IDPH to post on its website website an information system for lead in drinking water and sampling water management guidelines in schools. On 5-8-17, the IDPH posted *Information System for Lead Level in School Buildings*. There are several links available at [www.idph.state.il.us/lead-and-drinking-water/lead-in-school-buildings](http://www.idph.state.il.us/lead-and-drinking-water/lead-in-school-buildings). Page 2 of 20 includes the water system IDPH is requiring the notification, sampling, and management required in this section starting to be followed for all sampling locations identified with any level of lead. Because the state does not require the IDPH to screen each additional sampling location.

**16** If any results listed in the school record are over the 0.01mg/L, a district must provide individual notification of sampling results to the notice or emergency notification, as appropriate, of all enrolled students and staff and (1) the corresponding sampling location within the school building and (2) the U.S. Environmental Protection Agency's website for information about lead in drinking water at [www.epa.gov/lead-and-drinking-water/lead-in-drinking-water](http://www.epa.gov/lead-and-drinking-water/lead-in-drinking-water). 2015 ILCS 520/25.5(b)(3). If any results listed in the school are at or below the safe per billion, and lead can be made in the same manner as by testing on the school's website. 17.

**Emergency Closing**

The Superintendent is authorized to close school(s) in the event of hazardous weather or other emergency that threatens the safety of students, staff members, or school property. 17

**LEGAL REF:** 105 ILCS 5/10-20.2, 5/10-20.56, 5/18-12, and 5/18-12.5, and  
105 ILCS 12W, School Safety Drill Act, implemented by 29 IL Admin. Code, Part  
1500.  
210 ILCS 74, Physical Fitness Facility Medical Emergency Preparedness Act.  
225 ILCS 320/35.5, III. Plumbing License Law.

**CROSS REF:** 4:116 (Transportation), 4:175 (Convicted Child Sex Offender; Screening;  
Notifications), 4:180 (Pandemic Preparedness), 5:30 (Hiring Process and  
Criteria), 8:30 (Visitors to and Conduct on School Property), 8:100 (Relations  
with Other Organizations and Agencies)

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

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

4:170

Page 5 of 5

## General Personnel

### Equal Employment Opportunity and Minority Recruitment <sup>1</sup>

The School District shall provide equal employment opportunities<sup>2</sup> to all persons regardless of their race; color; creed; religion;<sup>3</sup> national origin; sex;<sup>4</sup> sexual orientation;<sup>5</sup> age;<sup>6</sup> ancestry; marital

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

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

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

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

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

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

In addition to the ~~Ill. Human Rights Act~~ IHRA and the federal Equal Employment Opportunities Act (~~EEOA~~) (discussed in *fn 2*), see the Religious Freedom Restoration Act. (775 ILCS 359).

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

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

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

status;<sup>7</sup> arrest record;<sup>8</sup> military status; order of protection status;<sup>9</sup> unfavorable military discharge;<sup>10</sup> citizenship status provided the individual is authorized to work in the United States;<sup>11</sup> use of lawful products while not at work;<sup>12</sup> being a victim of domestic or sexual violence;<sup>13</sup> genetic information;<sup>14</sup> physical or mental handicap or disability, if otherwise able to perform the essential functions of the job with reasonable accommodation;<sup>15</sup> pregnancy, childbirth, or related medical conditions;<sup>16</sup> credit

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<sup>7</sup> 105 ILCS 5/10-22.4 and 775 ILCS 5/1-103(Q). The term *marital status* means an individual's legal status of being married, single, separated, divorced, or widowed, (775 ILCS 5/1-103(Q)). This statutory definition does not encompass the identity of one's spouse. Thus, school districts may adopt no-spouse policies. *Boaden v. Dept. of Law Enforcement*, 664 N.E.2d 61-171 Ill.2d 230 (Ill. 1996).

<sup>8</sup> Districts may not make employment decisions on the basis of arrest history, but may use job-disqualifying criminal convictions, (775 ILCS 5/2-103). The Job Opportunities for Qualified Applicants Act, 820 ILCS 75/1, prohibits an employer from asking about a criminal record until the employer determines that the applicant is qualified for the position; however, this does not apply when employers are required to exclude applicants with certain criminal convictions from employment. School employers should limit their requests for criminal convictions to job-disqualifying convictions, 820 ILCS 75/15. See also the EEOC's U.S. Equal Employment Opportunity Commission's guidance, *Consideration of Arrest and Conviction Records in Employment Decisions*, at [www.eeoc.gov/laws/guidance/conviction.cfm](http://www.eeoc.gov/laws/guidance/conviction.cfm).

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

<sup>10</sup> *Military status* means a person's status on active duty or in status as a veteran in the U.S. Armed Forces, veteran of any reserve component of U.S. Armed forces, or current member or veteran of the Illinois Army National Guard or Illinois Air National Guard, (775 ILCS 5/1-103(L-1)). *Unfavorable military discharge* does not include those characterized as RE-4 or dishonorable, (775 ILCS 5/1-103(P)). The Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301 et seq., prohibits employers from discriminating or retaliating against any person for reasons related to past, present, or future service in a uniformed service, 38 U.S.C. 454301 et seq. See *§ 9 in policy 420: Hiring Process and Criteria*.

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

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

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

<sup>14</sup> Illinois' Genetic Information Protection Act (GIPA), (410 ILCS 513/25) and Title II of Genetic Information Nondiscrimination Act (GINA), (42 U.S.C. §2000ff et seq.). Both laws protect job applicants and current and former employees from discrimination based on their genetic information. Note that GIPA provides greater protections to Illinois employees than Title II of GINA. *GIPA, amended by P.A. 109-396, eff. 1-1-18, prohibits employers from penalizing employees who do not disclose genetic information or do not choose to participate in a program requiring disclosure of the employee's genetic information. See § 9 in 2:260, Uniform Grievance Procedures* for the definition of genetic information and a detailed description of both statutes, including of Title I of GINA affecting the use of genetic information in health insurance. In 2011, the EEOC published an informative guidance letter, *ADA & GINA: Incentives for Workplace Wellness Program*, at [www.eeoc.gov/eeoc/facts/letters/2011/ada\\_gina\\_incentives.html](http://www.eeoc.gov/eeoc/facts/letters/2011/ada_gina_incentives.html). Consult the board attorney for guidance regarding specific application of these laws and how they integrate with other related laws, e.g., the Family Medical Leave Act, the Americans with Disabilities Act, and other State laws governing time off for sickness and workers' compensation.

<sup>15</sup> *Americans with Disabilities Act of 1990 (ADA)*, 42 U.S.C. §§12101 et seq., amended by the *Americans with Disabilities Act Amendments Act of 2008 (ADAAA)*, Pub. L. 110-325 and modified by the *Workforce Fairness Act*, Pub. L. 111-3; *Rehabilitation Act of 1973*, (29 U.S.C. §791 et seq.).

<sup>16</sup> 775 ILCS 5/2-102(I). Employers must provide reasonable accommodations to employees with conditions related to pregnancy or childbirth, (775 ILCS 5/2-102(I)). Employers are required to post a notice summarizing the right to be free from unlawful discrimination and the right to certain reasonable accommodations, 14-cv-775 ILCS 5/2-102(K). The Ill. Dept. of Labor, IDOL, is required to prepare such a notice, retrievable from its website, which employers may use.

history, unless a satisfactory credit history is an established bona fide occupational requirement of a particular position;<sup>17</sup> or other legally protected categories.<sup>18 19 20 21</sup> No one will be penalized solely for his or her status as a registered qualifying patient or a registered designated caregiver for purposes of the Compassionate Use of Medical Cannabis Pilot Program Act, 410 ILCS 130/. <sup>22</sup>

Persons who believe they have not received equal employment opportunities should report their claims to the Nondiscrimination Coordinator and/or a Complaint Manager for the Uniform Grievance Procedure. These individuals are listed below. No employee or applicant will be discriminated or retaliated against because he or she: (1) requested, attempted to request, used, or attempted to use a reasonable accommodation as allowed by the Illinois Human Rights Act, or (2) initiated a complaint,

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Federal law also prohibits employers from discriminating against employees and applicants on the basis of pregnancy, childbirth, or related medical conditions. (42 U.S.C. §2000e(k)). Pregnant workers with pregnancy-related impairments may have disabilities for which they may be entitled to reasonable accommodation under the ADA. (42 U.S.C. §12112). Guidance from the U.S. Equal Employment Opportunity Commission EEOC (7-14-14) is available at: [www.eeoc.gov/laws/guidance/pregnancy\\_aa.cfm](http://www.eeoc.gov/laws/guidance/pregnancy_aa.cfm).

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

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

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

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

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

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

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

20 Districts may not make residency in the district a condition of employment for teachers or educational support personnel. (105 ILCS 5/24-4.1, and 5/10-23.5). This ban on residency requirements for teachers applies only to instructional personnel, and not, for example, to assistant principals. *Owen v. Kankakee School Sch. Dist.*, 632 N.E.2d 1073, 261 Ill.App.3d 298 (Ill.App.3,3rd Dist. 1994). Districts also may not ask an applicant, or the applicant's previous employer, whether the applicant ever received, or filed a claim for, benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act. (820 ILCS 55/10(a)). Districts are also prohibited from requiring, requesting, or coercing an employee or potential employee to provide a user name and password or any password or other related account information to gain or demand access to his or her personal online account. ~~Id., at 55/10(b), amended by P.A. 99-610, eff. 1-1-13~~. While the law does not prohibit employers from viewing public information, consult the board attorney before engaging in this practice.

21 School districts must accommodate mothers who choose to continue breastfeeding after returning to work. See the Right to Breastfeed Act, 740 ILCS 137/; Nursing Mothers in the Workplace Act, 820 ILCS 280/; and Fair Labor Standards Act, 29 U.S.C. §207(c)(1). See sample language for a personnel handbook in 5:10-AP, ~~Administrative Procedure--Workplace Accommodations for Nursing Mothers.~~

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

was a witness, supplied information, or otherwise participated in an investigation or proceeding involving an alleged violation of this policy or State or federal laws, rules or regulations, provided the employee or applicant did not make a knowingly false accusation nor provide knowingly false information. 23

### Administrative Implementation

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

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

The Ill. Whistleblower Act (IWA) specifically prohibits employers from retaliating against employees for: (1) disclosing information to a government or law enforcement agency (740 ILCS 174/15(b)); (2) disclosing information in a court, an administrative hearing, or before a legislative commission or committee, or in any other proceeding where the employee has reasonable cause to believe that the information reveals a violation of a State or federal law, rule or regulation (740 ILCS 174/15(ba)); (3) refusing to participate in an activity that would result in a violation of a State or federal law, rule, or regulation, including, but not limited to, violations of the Freedom of Information Act (740 ILCS 174/20); and (4) disclosing or attempting to disclose public corruption or wrongdoing (740 ILCS 174/20.1). The definition of retaliation is expanded to include *other retaliation and threatening retaliation*, (740 ILCS 174/20.1, *and* 30.2).

The Ill. False Claims Act, 740 ILCS 175/4, defines *State* to include school districts. 740 ILCS 175/2(a). Thus, boards may seek a penalty from a person for making a false claim for money or property. (740 ILCS 175/4). For information regarding the Ill. Whistleblower Act (IWA) and the tort of retaliatory discharge, see *Thomas v. Guardsmark*, 487 F.3d 531 (7th Cir., 2007) (discussing the elements of retaliatory discharge and Ill. Whistleblower Act (IWA)); *and* *Sherman v. Kraft General Foods, Inc.*, 651 N.E.2d 708, 712 Ill.App.3d 833 (Ill.App.4th 4th Dist., 1995) (finding employee who reported asbestos hazard had a cause of action for retaliatory discharge).

24 Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. The U.S. Dept. of Education's Office for Civil Rights prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (a) a *Dear Colleague Letter on Title IX Coordinators*, (b) a *Letter to Title IX Coordinators* that provides them with more information about their roles, and (c) a *Title IX Resource Guide* that includes an overview of Title IX's requirements with respect to several key issues. See [www2.ed.gov/policy/elsec/ps/ps2012/tlcr-coordinators.html](http://www2.ed.gov/policy/elsec/ps/ps2012/tlcr-coordinators.html).

While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. Thus, the policy should be adopted with blanks for the superintendent to fill in later. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored. An e-mail address is optional but may facilitate reporting. A policy should not be adopted with a generic name in it; rather, the identifying information can be added and modified as necessary.



**Non-discrimination Coordinator<sup>25</sup>:**

Roni Lopez  
Name

Joni Martin

Address

Email

Telephone

**Complaint Managers:**

Joni Martin  
Name

Lea Anne Junt  
Name

Address

Address

Email

Email

Telephone

Telephone

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

**Minority Recruitment 27**

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

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<sup>25</sup> Sample policy 2:260, *Uniform Grievance Procedure*, states that a district's Non-discrimination Coordinator also serves as its Title IX Coordinator. Best practice is that throughout the district's board policy manual, the same individual be named as Non-discrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

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

<sup>27</sup> All districts must have a policy on minority recruitment, (105 ILCS 5/10-20.7a). Unlike minority recruitment efforts, affirmative action plans are subject to significant scrutiny because of the potential for reverse discrimination. The U.S. Constitution's guarantee of equal protection prohibits school districts from using racial hiring quotas without evidence of past discrimination. See 29 C.F.R. §1608.1 et seq. (*Equal Employment Opportunity Commission EEOC's* guidelines for affirmative action plans); *Wygant v. Jackson Board of Education*, 405 S.Ct. 1874 (1986) (The goal of remedying societal discrimination does not justify race-based layoffs.); *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989) (Minority contractor quota struck; quotas must be narrowly tailored to remedy past discrimination and the city failed to identify the need for remedial action and whether race-neutral alternatives existed.).

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

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

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

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

## General Personnel

### Workplace Harassment Prohibited <sup>1</sup>

The School District expects the workplace environment to be productive, respectful, and free of unlawful discrimination, including harassment. District employees shall not engage in harassment or abusive conduct on the basis of an individual's race, religion<sup>2</sup>, national origin, sex, sexual orientation, age, citizenship status, disability, or other protected status identified in Board policy 5:10, *Equal Employment Opportunity and Minority Recruitment*. Harassment of students, including, but not limited to, sexual harassment, is prohibited by Board policy 7:20, *Harassment of Students Prohibited*.

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

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

<sup>1</sup> State and federal law controls this policy's content. Federal law requires districts to take action to prevent sexual harassment and to disseminate a policy regarding its prohibition of sex discrimination. 29 C.F.R. §1604.11(f); 34 C.F.R. §106.9. Harassment based on a protected status is a form of discrimination that violates many State and federal laws (see the policy's Legal References).

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

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

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

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

#### Inventories <sup>4</sup>

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

#### Disposition of District Property <sup>5</sup>

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

#### Taxable Fringe Benefits <sup>6</sup>

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

#### Controls for Revolving Funds and Petty Cash <sup>7</sup>

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

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

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

~~The recipient (through either sale or donation) of any discarded school bus must immediately: (1) remove, cover, or conceal the "SCHOOL BUS" signs and any other insignia or words indicating the vehicle is a school bus; (2) render inoperable or remove entirely the stop signal arm and flashing signal system; and (3) paint the school bus a different color from those under Section 12-801 of the Illinois Vehicle Code. 625 ILCS 5/12-806(b), added by P.A. 100-277, eff. 1-1-18.~~

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

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

description of their intended purpose. The Superintendent or designee shall include checks written to reimburse revolving funds on the Board's monthly listing of bills indicating the recipient and including an explanation.

#### **Control Requirements for Checks <sup>8</sup>**

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

#### **Internal Controls <sup>9</sup>**

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

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

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

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

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

<sup>9</sup> This section is largely up to the local board's discretion. The annual audit must include a "review and testing of the internal control structure." (25 Ill.Admin.Code §100.110). This review's limited scope means that boards should not rely on it to reveal uncontrolled financial risks. The board's responsibility is to establish policy to safeguard the district's financial condition. Indeed, the oath of office includes this promise: "I shall respect taxpayer interests by serving as a faithful protector of the school district's assets." In this sample policy, the board sets the control objectives and the superintendent is responsible for developing an internal controls system.

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

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

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

### Sexual Harassment Prohibited <sup>3</sup>

The School District shall provide a workplace environment free of ~~unwelcome sexual advances, requests for sexual favors, and other verbal, or physical, or other conduct,~~ or communications constituting harassment on the basis of sex as defined and otherwise prohibited by State and federal law.

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

### Making a Complaint-Enforcement <sup>5</sup>

~~Employees are encouraged to promptly report information regarding violations of this policy.<sup>6</sup> Employees may choose to report to a person of the employee's same gender. Every effort should be~~

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

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

~~The State Officials and Employees Ethics Act (5 ILCS 430/70-5(a), amended by P.A. 100-554) requires governmental entities (including school districts) to adopt an ordinance or resolution establishing a policy to prohibit sexual harassment. Unlike the powers granted by the Ill. General Assembly to municipalities to your ordinance, school boards govern by rules referred to as policies. 105 ILCS 5/10-20.5. Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board. 105 ILCS 5/10-20.~~

~~The policy must include, at a minimum: (1) a prohibition on sexual harassment; (2) details on how an individual can report an allegation of sexual harassment, including options for making a confidential report to a supervisor, ethics officer, inspector general, or the Ill. Dept. of Human Rights; (3) a prohibition on retaliation for reporting sexual harassment allegations, including availability of whistleblower protections under the State Officials and Employees Ethics Act, the Whistleblower Act (740 ILCS 1740), and the IHRA (775 ILCS 50); and (4) the consequences: (a) of a violation of the prohibition on sexual harassment; and (b) for knowingly making a false report. Id.~~

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

<sup>5</sup> See *Berry v. Delta Airlines*, 260 F.3d 503, 511 (7th Cir. 2001) ("If an employer takes reasonable steps to discover and rectify the harassment of its employees -- it has discharged its legal duty.")

~~In addition to violating other civil rights laws, a school district violates the public accommodations article in the IHRA if it fails to take corrective action to stop severe or pervasive harassment. 775 ILCS 5/5-100 and 5/5-102.2.~~

<sup>6</sup> ~~School districts are not required to train employees regarding workplace harassment, including sexual harassment; however it is best practice. For districts that wish to provide such trainings, best practices suggest annual trainings work best, including on applicable board policies and procedures, what constitutes workplace harassment, complaint and enforcement mechanisms, and employees' legal rights.~~

made to file such complaints as soon as possible, while facts are known and potential witnesses are available.

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

Employees should report claims of harassment to the Nondiscrimination Coordinator and/or use Board policy 2:260, *Uniform Grievance Procedure*, and/or use the Board policy 2:260, *Uniform Grievance Procedure*. Employees may choose to report to a person of the employee's same sex. There are no express time limits for initiating complaints and grievances under this policy; however, every effort should be made to file such complaints as soon as possible, while facts are known and potential witnesses are available.

**Whom to Contact with a Report or Complaint ?**

An employee should report claims of harassment, including making a confidential report, to any of the following: his/her immediate supervisor, the Building Principal, an administrator, the Nondiscrimination Coordinator, and/or a Complaint Manager.<sup>6</sup> Employees may also report claims using Board policy 2:260, *Uniform Grievance Procedure*. If a claim is reported using Board policy 2:260, then the Complaint Manager shall process and review the complaint according to that policy, in addition to any response required by this policy 5:20, *Workplace Harassment Prohibited*.

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

**Nondiscrimination Coordinator:**

Lori Lopez  
Name  
164 S. Prospect  
Address  
llopez@d64.org  
Email  
847-318-4303  
Telephone

Joni Martin  
jmartin  
847-318-4305

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<sup>7</sup> Title IX regulations require districts to identify the name, address, and telephone number of the person who is responsible for coordinating the district's compliance efforts. A policy should not be adopted with a person's name in it; rather, the identifying information can be added and amended as necessary.

<sup>6</sup> 5 ILCS 430/20-5(a), amended by P.A. 100-555, requires that a school board policy prohibiting sexual harassment include details for reporting an allegation of sexual harassment, including criteria for making a confidential report to a supervisor and an ethics officer. 5 ILCS 430/20-23 defines ethics officers as being designated by State agencies under the jurisdiction of the Executive Ethics Commission. School districts are not State agencies (5 ILCS 430/1-5) and do not have ethics officers; thus, this model policy substitutes Complaint Manager for ethics officer.

**Complaint Managers:**

Name Joel  
164 S. Prospect  
Address  
jmartin@db4.org  
Email  
847-318-4305  
Telephone

Name LeAnne  
1 Frost @ db4.org  
Address  
Email  
847-318-4332  
Telephone

**Investigation Process**

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

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

**Enforcement 9**

A violation of this policy by an employee may result in discipline, up to and including discharge.10 A violation of this policy by a third party will be addressed in accordance with the authority of the Board in the context of the relationship of the third party to the District, i.e., vendor, parent, invitee, etc. Any employees making a knowingly false accusation regarding harassment will likewise be subject to disciplinary action, up to and including discharge.11

**Retaliation Prohibited**

An employee's employment, compensation, or work assignment shall not be adversely affected by complaining or providing information about harassment. Retaliation against employees for bringing bona fide complaints or providing information about harassment is prohibited (see Board policy 2:260, Uniform Grievance Procedure), and whistleblower protection may be available under the State Officials and Employees Ethics Act (5 ILCS 430), the Whistleblower Act (740 ILCS 174), and the Ill. Human Rights Act (775 ILCS 5).12

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

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

10 5 ILCS 430/70-5(a), amended by P.A. 100-554 (consequences of a violation of the prohibition on sexual harassment).

11 Id. (consequences for knowingly making a false report of sexual harassment).

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

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



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

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

Recourse to State and Federal Fair Employment Practices Agencies 13

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

The Superintendent shall also use reasonable measures to inform staff members and applicants of this policy, which shall include reprinting this policy in the appropriate handbooks.<sup>14</sup>

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13 5 ILCS 430/70-5(a), amended by P.A. 100-554. (How an individual can report an allegation of sexual harassment, including options for making a confidential report to the Inspector General or the Ill. Dept. of Human Rights). This sample policy does not reference the Inspector General because the Inspector General does not have jurisdiction over public school districts, 5 ILCS 430/1.

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

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

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

## General Personnel

### Abused and Neglected Child Reporting <sup>1</sup>

Any District employee who suspects or receives knowledge that a student may be an abused or neglected child or, for a student aged 18 through 21, an abused or neglected individual with a disability-2, shall: (1) immediately report or cause a report to be made to the Illinois Department of Children and Family Services (DCFS) on its Child Abuse Hotline 1-800-25-ABUSE (1-800-252-2873)(within Illinois); or 1-217-524-2606 (outside of Illinois); or 1-800-358-5117 (TTY), and (2) follow directions given by DCFS concerning filing a written report within 48 hours with the nearest DCFS field office.-<sup>3</sup> Any District employee who believes a student is in immediate danger of harm, shall first call 911. The employee shall also promptly notify the Superintendent or Building Principal that a report has been made.-<sup>4</sup> The Superintendent or Building Principal shall immediately coordinate

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<sup>1</sup> State or federal law controls this policy's content. The Abused and Neglected Child Reporting Act (ANCR Act, 325 ILCS 5/0) requires school personnel to make an immediate report or cause a report to be made to DCFS; it states that they "may also notify the person in charge of [the] school[.]" (325 ILCS 5/4). If the report involves a *disabled adult student*, employees should expect DCFS to instruct them to call the Ill. Dept. of Human Services Office (DHS) office of the Inspector General's statewide 24 hour toll-free telephone number at 1-800-843-6154 (within Illinois: 1-866-524-3533 (TTY/NonTalk); or 711 (Illinois Relay)). (325 ILCS 544a and 20 ILCS 1305/1-17(b)). Reports involving a disabled adult student may be made directly to DHS; however, for simplicity, and to preserve a superintendent's duty to disclose certain reports involving an employee or former district employee (see discussion in *fn 120* below) and the immunity for such disclosures, the sample policy directs the initial phone call involving a disabled adult student to DCFS.

Abuse and neglect are defined in 325 ILCS 5/3 and, for disabled adult students in 20 ILCS 1305/1-17(b). Abuse may be generally understood as any physical or mental injury or sexual abuse inflicted on a child or disabled adult student other than by accidental means or creation of a risk of such injury or abuse by a person who is responsible for the child's or disabled adult student's welfare. Neglect may be generally understood as abandoning a child or disabled adult student or failing to provide the proper support, education, medical, or remedial care required by law by one who is responsible for the child's or disabled adult student's welfare.

Any person required by law to report abuse and neglect who willfully fails to report is guilty of a Class A misdemeanor. A teaching ~~license certificate~~ may be suspended for willful failure to report suspected child abuse or neglect as required by law, (105 ILCS 5/21B-75 and 20 ILCS 1305/1-17(k)(1)). 20 ILCS 1305/1-17(k)(1) allows mandated reporters for disabled adults four hours to report after the initial discovery of the incident, allegation, or suspicion of any one or more of the following: mental abuse, physical abuse, sexual abuse, neglect, or financial exploitation.

District employees who make a report in good faith receive immunity, except in cases of willful or wanton misconduct. See 325 ILCS 5/4 and 9. Further, for the purposes of any proceedings, civil or criminal, good faith of the person making the report is presumed. *Id.*

<sup>2</sup> State child and disabled adult protection laws define the same class of individuals differently, but with the same goal: to protect a disabled adult student, not living in a DCFS licensed facility, who is still finishing school with an Individual Education Plan (IEP). The Ill.-Dept. of Human Services Act, (DHS Act, 20 ILCS 1305/1-17(b)) defines "adult student with a disability" as an adult student, age 18 through 21, inclusive (through the day before the student's 22nd birthday), with an IEP other than a resident of a facility licensed by DCFS. 20 ILCS 1305/1-17(b). This statutory definition is the basis for this sample policy's language. For purposes of the discussions in *fn 1* and *10*, the term "adult student with a disability" is shortened to *disabled adult student*.

For elementary districts, delete the following phrase from the first sentence: "or, for a student aged 18 through 21, an abused or neglected individual with a disability;."

<sup>3</sup> 325 ILCS 5/7. For a board that wants to include what a DCFS report should contain, an optional sentence follows:  
The report shall include, if known:

1. The name and address of the child, parent/guardian names, or other persons having custody;
2. The child's age;
3. The child's condition, including any evidence of previous injuries or disabilities; and
4. Any other information that the reporter believes may be helpful to DCFS for its investigation.

<sup>4</sup> The sample policy makes the report to the superintendent or building principal mandatory to keep the administration informed. The administration may not force the staff member to change or modify his or her report.

any necessary notifications to the student's parent(s)/guardian(s) with DCFS, the applicable school resource officer (SRO), and/or local law enforcement. <sup>5</sup>

Any District employee who discovers child pornography on electronic and information technology equipment shall immediately report it to local law enforcement, the National Center for Missing and Exploited Children's CyberTipline 1-800-THE-LOST (1-800-843-5678), or online at report.cybertip.org/ or www.cybertipline.com. The Superintendent or Building Principal shall also be promptly notified of the discovery and that a report has been made. <sup>6</sup>

Any District employee who observes any act of hazing that does bodily harm to a student must report that act to the Building Principal, Superintendent, or designee who will investigate and take appropriate action. If the hazing results in death or great bodily harm, the employee must first make the report to law enforcement and then to the Superintendent or Building Principal. Hazing is defined as any intentional, knowing, or reckless act directed to or required of a student for the purpose of being initiated into, affiliating with, holding office in, or maintaining membership in any group, organization, club, or athletic team whose members are or include other students. <sup>7</sup>

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<sup>5</sup> Optional. The sample policy makes coordination with DCFS, the SRO, and local law enforcement a step in the process of reporting, so the local agencies and school district are better able to prevent and manage the risks school officials and parents/guardians face when a DCFS report has been made, e.g., situations where parents/guardians, upon learning a DCFS report has been made involving their child(ren), commit an act of self-harm in response to the information.

For school districts in DuPage County, the DuPage County State's Attorney (SAO), Regional Office of Education (ROE), Police Dept. (PD), and DCFS have created a Model Policy Reporting Abuse and Neglect for School Officials in DuPage County, at: [www.dupageschools.org/vp-consults/loads/Mandated\\_Reporting.pdf](http://www.dupageschools.org/vp-consults/loads/Mandated_Reporting.pdf). Consult the board attorney about this reporting policy - its intent is for school officials to immediately inform the SAO that a report to DCFS has been made to allow the SAO to investigate and prevent evidence spoliation. Note: The DuPage SAO, ROE, and PD lack authority under ANCRA over school officials to enforce compliance with this "model reporting policy;" only DCFS has the authority under ANCRA to enforce penalties under ANCRA, not the "model reporting policy." The DuPage SAO, ROE, and PD did not consult school officials in the creation of its "model reporting policy."

<sup>6</sup> ANCRA-The Reporting Act requires an electronic and information technology equipment worker or the worker's employer to report a discovery of child pornography depicted on an item of electronic and information technology equipment. (325 ILCS 5/4.5). Consult the board attorney to determine whether any district employees fit the definition of an *electronic and information technology worker*, i.e., are "persons who in the scope and course of their employment or business install, repair, or otherwise service electronic and information technology equipment for a fee."

The paragraph exceeds the ~~Statute~~ newly added requirements by requiring *all* district employees to report a discovery of child pornography on electronic and information technology equipment. This furthers the National Center for Missing and Exploited Children's public policy goal of "empowering the public to take immediate and direct action to enforce a zero tolerance policy regarding child sexual exploitation."

Similar to school personnel who are mandated reporters, electronic and information technology equipment workers and their employers have broad immunities from criminal, civil, or administrative liabilities when they report a discovery of child pornography as required under 325 ILCS 5/4.5, except for willful or wanton misconduct (e.g., knowingly filing a false report). Failure to report a discovery of child pornography is a business offense subject to a fine of \$1001.

<sup>7</sup> 720 ILCS 5/12C-50.1(b), added by P.A. 98-399, creates a duty for *school officials* to report hazing. The term *school official* includes all school employees and volunteer coaches. (Id.). The duty to report hazing is triggered only when the district employee was fulfilling his or her responsibilities as a school official and observed hazing which results in bodily harm. (Id.). A report must be made to *supervising educational authorities*, which is not defined in the Act, (Id.). Common sense, however, would require the individual witnessing hazing to report it to the building principal or superintendent. Failure to report hazing is a Class B misdemeanor. Failure to report hazing that resulted in death or great bodily harm is a Class A misdemeanor. (Id.). 7:190-AP1, *Student Handbook - Hazing Prohibited*, uses the same definition of *hazing*; this definition is based on 720 ILCS 5/12C-50.

Abused and Neglected Child Reporting Act (ANCRA), School Code, and Erin's Law Training

The Superintendent or designee shall provide staff development opportunities for District employees in the detection, reporting, and prevention of child abuse and neglect. <sup>8</sup>

All District employees shall:

1. Before beginning employment, sign the *Acknowledgement of Mandated Reporter Status* form provided by DCFS. The Superintendent or designee shall ensure that the signed forms are retained.
2. Complete mandated reporter training as required by law within one year of initial employment and at least every ~~5~~ <sup>two</sup> ~~five~~ years after that date. <sup>9</sup>

The Superintendent will encourage all District educators to complete continuing professional development that addresses the traits and identifiers that may be evident in students who are victims of child sexual abuse, including recognizing and reporting child sexual abuse and providing appropriate follow-up and care for abused students as they return to the classroom setting. <sup>10</sup> ~~11~~

Special Superintendent Responsibilities

The Superintendent shall execute the requirements in Board policy 5:150, *Personnel Records*, whenever another school district requests a reference concerning an applicant who is or was a District employee and was the subject of a report made by a District employee to DCFS. <sup>12</sup>

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<sup>8</sup> While it is unclear whether this is a duty or power, 103 ILCS 5/10-23.12(a), amended by P.A.s 100-413 (eff. 1-1-18) and 100-468 (eff. 6-1-18), authorizes boards "to provide staff development for local school site personnel who work with pupils in grades kindergarten through 8, in the detection, reporting and prevention of child abuse and neglect."

The drill during such training should be: "If in question, report."

<sup>9</sup> The Abused and Neglected Child Reporting Act (ANCRA), 325 ILCS 5/4, amended by P.A. 98-408, also requires staff members, within one year of employment, to complete training from a provider or agency with expertise in recognizing and reporting child abuse. 325 ILCS 5/4. This training must be completed again at least every ~~5~~ <sup>two</sup> ~~five~~ years. This ANCRA training requirement addresses only new employees to a district. It is silent about how to manage individuals who were employed by a district before 7-1-2014.

To reduce liability and align with best practices, ANCRA training for existing district employees appears prudent; however, consult the board attorney about:

1. Whether mandating existing employees to participate in ANCRA training is an item on which collective bargaining may be required. Any policy that impacts upon wages hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.
2. How to comply with both the new ANCRA training requirements and whether compliance with them would also satisfy the School Code's more limited district-provided training requirement discussed in *fn 8* above.

<sup>10</sup> *Erin's Law Taskforce Final Report (Report)*, available at: [www.ilsos.gov/Documents/erin-law-final0512.pdf](http://www.ilsos.gov/Documents/erin-law-final0512.pdf). 105 ILCS 5/22-65 was repealed by P.A. 99-30 (eff. 7-10-15) upon submission of the Report.

<sup>11</sup> 103 ILCS 5/10-23.12(b), amended by P.A.s 100-413 (eff. 1-1-18) and 100-468 (eff. 6-1-18), permits DCFS to cooperate with school officials to distribute informational ANCRA materials in school buildings. The following *critical sentence* provides that information: "The Superintendent or designee will display DCFS-issued materials that list the DCFS toll-free telephone number and methods for making a report under ANCRA in a clearly visible location in each school building."

<sup>12</sup> The Abused and Neglected Child Reporting Act (ANCRA), 325 ILCS 5/4, requires a superintendent, upon being requested for a reference concerning an employee or former employee, to disclose to the requesting school district the fact that a district employee has made a report involving the conduct of the applicant or caused a report to be made to DCFS. 325 ILCS 5/4. When a report involves a disabled adult student, DCFS must instruct mandated reporters making these reports to call the Ill. Dept. of Human Services (DCFS) Office of the Inspector General's statewide 24 hour toll-free telephone number: 1-800-368-1463 (325 ILCS 5/4.4a) to make a report under the Ill. Dept. of Human Services (DHS) Act (20 ILCS 1206/5).

The Superintendent shall notify the State Superintendent and the Regional Superintendent in writing when he or she has reasonable cause to believe that a license holder was dismissed or resigned from the District as a result of an act that made a child an abused or neglected child. 13 The Superintendent must make the report within 30 days of the dismissal or resignation and mail a copy of the notification to the license holder. 14

#### Special School Board Member Responsibilities

Each individual Board member must, if an allegation is raised to the member during an open or closed Board meeting that a student is an abused child as defined in the Act, direct or cause the Board to direct the Superintendent or other equivalent school administrator to comply with the Act's requirements concerning the reporting of child abuse. 15

**LEGAL REF:** 105 ILCS 5/10-21.9.  
20 ILCS 1305/1-1 ~~et seq.~~ Department of Human Services Act.  
325 ILCS 5/ Abused and Neglected Child Reporting Act.  
720 ILCS 5/12C-50.1 Criminal Code of 2012.

**CROSS REF.:** 2:20 (Powers and Duties of the School Board; Indemnification), 5:20 (Workplace Harassment Prohibited), 5:100 (Staff Development Program), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:150 (Personnel Records), 6:120 (Education of Children with Disabilities), 6:250 (Community Resource Persons and Volunteers), 7:20 (Harassment of Students Prohibited), 7:150 (Agency and Police Interviews)

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The DHS Act, (20 ILCS 1305/1-17(1)), then requires a determination of whether a report involving a disabled adult student should be investigated under it or the Abuse of Adults with Disabilities Intervention Act, (20 ILCS 2435), however that Act was repealed by P.A. 99-049, (eff. 7-1-13). The DHS Act does not outline a duty for the superintendent, upon being requested for a reference concerning an employee or former employee, to disclose to the requesting school district the fact that a district employee has made a report involving the conduct of the applicant or caused a report to be made to DHS involving an adult student with a disability.

Given the public policy behind the recent amendments to 325 ILCS 5/4, a reasonable interpretation of the law is that the superintendent's duty to disclose now involves DHS reports concerning adult students with disabilities. However, with no mechanism requiring DHS to report back to the superintendent a *non-substantiated report* (DHS version of a DCFS *unfounded* report), a superintendent's duty to disclose cannot end. Consult the board attorney about managing the duty to disclose reports that involve disabled adult students when DCFS redirects the reporter to DHS. For more information, see policy 5:150, *Personnel Records*.

13 Alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Educational Service Center." ~~P.A. 96-899 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.~~

14 105 ILCS 5/10-21.9(e-5) requires these notifications and provides superintendents immunity from any liability, whether civil or criminal or that otherwise might result by complying with the statute.

15 325 ILCS 5/4. This statute makes board members mandatory child abuse reporters "to the extent required in accordance with other provisions of this section expressly concerning the duty of school board members to report suspected child abuse." Thus, a board member's duty is "to direct the superintendent or other equivalent school administrator to comply with the Act's requirements concerning the reporting of child abuse" whenever an "allegation is raised to a school board member during the course of an open or closed school board meeting that a child who is enrolled in the school district of which he or she is a board member is an abused child." Of course, any board member with reason to doubt that a report was or will be made should directly contact DCFS.

## General Personnel

### Staff Development Program <sup>1</sup>

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

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

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

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

<sup>1</sup> State law requires the subject matter in paragraph 2 to be covered by policy. State or federal law controls this policy's content. A school board may set and enforce professional growth requirements. (105 ILCS 5/24-5). Failure to meet professional growth requirements is considered remediable. *Morris v. Ill. State Bd. of Educ. SBE, 655 N.E.2d 725 198 Ill.App.3d 51 (Ill.App.3-3rd Dist. 1990).*

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

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

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

<sup>4</sup> Insert the following option if a board wants to list in-services and/or required trainings that the School Code requires, but are not required to be specified in board policy. (~~105 ILCS 5/10-22.39 and 110/2-10(b)(3)~~). If the board does not choose this option, delete 325 ILCS 5/4 from the Legal References. The only non-School Code training requirement listed is from the Abused and Neglected Child Reporting Act.

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

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

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

3. Training that, at a minimum, provides District staff with a basic knowledge of matters relating to acquired immunodeficiency syndrome (AIDS) and the availability of appropriate sources of counseling and referral.
4. Training for school personnel who work with students in grades 7 through 12 to identify the warning signs of mental illness and suicidal behavior in adolescents and teens along with appropriate intervention and referral techniques.
5. Abused and Neglected Child Reporting Act (ANCRA), School Code, and *Erin's Law* Training as follows:
  - a. Staff development for local school site personnel who work with students in grades kindergarten through 8, in the detection, reporting, and prevention of child abuse and neglect (see policy 5:90, *Abused and Neglected Child Reporting*).
  - b. Within one year of employment, each staff member must complete mandated reporter training from a provider or agency with expertise in recognizing and reporting child abuse. Mandated reporter training must be completed again at least every five years (see policy 5:90, *Abused and Neglected Child Reporting*).
  - c. Informing educators about the recommendation in the *Erin's Law* Taskforce Report requesting them to attend continuing professional development programs that address the prevention and identification of child sexual abuse (see policy 5:90, *Abused and Neglected Child Reporting*).
6. Education for staff instructing students in grades 7 through 12, concerning teen dating violence as recommended by the District's Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students or Complaint Manager.
7. Ongoing professional development for teachers, administrators, school resource officers, and staff regarding the adverse consequences of school exclusion and justice-system involvement, effective classroom management strategies, culturally responsive discipline, and developmentally appropriate disciplinary methods that promote positive and healthy school climates.
8. Annual continuing education and/or training opportunities (*professional standards*) for school nutrition program directors, managers, and staff. Each school food authority's director shall document compliance with this requirement by the end of each school year and maintain documentation for a three year period.
9. All high school coaching personnel, including the head and assistant coaches, and athletic directors must obtain online concussion certification by completing online concussion awareness training in accordance with 105 ILCS 25/1.15. Coaching personnel and athletic directors ~~hired before 8-19-14 must be certified by 8-19-2015; if hired on or after 8-19-14, they must be certified before their position's start date.~~
10. The following individuals must complete concussion training as specified in the Youth Sports Concussion Safety Act: coaches and assistant coaches (whether volunteer or employee) of an interscholastic athletic activity; nurses, ~~licensed and/or non-licensed healthcare professionals~~ serving on the Concussion Oversight Team; athletic trainers; game officials of an interscholastic athletic activity; and physicians serving on the Concussion Oversight Team. ~~Individuals covered by this training mandate were to initially complete the training by 9-1-16.~~
11. Every two years, school personnel who work with students must complete an in-person or online training program on the management of asthma, the prevention of asthma symptoms, and emergency response in the school setting.
12. ~~Training for school personnel to develop cultural competency, including understanding and reducing implicit racial bias.~~
- 14-15. ~~For school personnel who work with hazardous or toxic materials on a regular basis, training on the safe handling and use of such materials.~~

Alternative to paragraph number 2:

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

Citations for this option follow:

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



The list items are not intended to be part of the adopted policy. They should be removed before the policy is adopted.

4. 105 ILCS 5/10-22.39(b).
5. 105 ILCS 5/10-23.12; 325 ILCS 5/44; and *Erin's Law Taskforce Final Report*, authorized by 105 ILCS 5/22-65 and repealed by P.A. 99-30 because of submission of the Report at: [www.erinlaw.org/Documents/erin-law-final-0512.pdf](http://www.erinlaw.org/Documents/erin-law-final-0512.pdf) and see also [www.erinlawwilliams.org/](http://www.erinlawwilliams.org/) for more resources based upon the report.
6. 105 ILCS 110/3.10(b)(2).
7. 105 ILCS 5/10-22.6(c-3), amended by P.A. 99-456. School board members are also included.
8. 7 C.F.R. Part: 210 ~~and 215~~. Section 210.2 defines school nutrition program directors, managers and staff. 7 C.F.R. §§210.15(b)(8) (recordkeeping requirements) and 210.31(a), (c), (d), and (e) (professional standards requirements); ~~and~~ 210.31(g)(requiring school food authority director to keep records), amended by Fed. Reg. Vol. 81, No. 146 at 50169 and finalized 7-29-16. Food service funds may be used for reasonable, allocable, and necessary training costs. (7 C.F.R. §210.31(f)). The U.S. Dept. of Agriculture (USDA) has established implementation resources that contain training opportunities and resources covering the four core training areas: nutrition, operations, administration, and communications/marketing. ~~They are available at: [professionalfundamentals.nal.usda.gov/](http://professionalfundamentals.nal.usda.gov/).~~
9. 105 ILCS 25/1.15.
10. 105 ILCS 5/22-80(h), added by P.A. 99-245, ~~and~~ amended by P.A. 99-486 ~~and~~ P.A. 100-309.
11. 105 ILCS 5/22-30(j-15), amended by P.A. 99-843. Consult the board attorney about whether:
  - a. All asthma action plans should require immediate 911 calls based upon In re: Estate of Jeffrey Stewart, 406 Ill.Dec. 345 (2nd Dist. 2016); In re: Estate of Stewart, 412 Ill.Dec. 914 (Ill. 2017) (school district's appeal denied). The court held that a teacher's failure to dial 911 immediately upon a student's asthma attack was *willful and wanton* conduct, subjecting the school district to liability under the Local Governmental and Governmental Employees Tort Immunity Act.
  - b. The duties and responsibilities of the district when it asks for, but does not receive an asthma action plan from a parent/guardian and the logistics of distributing any received plans to those employees who need to know based upon Stewart, above.

~~12. 105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-14.~~

~~13. 105 ILCS 5/10-20.17a; 23 Ill.Admin.Code §1.330.~~

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

5 Different from the in-service training that school districts must provide to their staff, 105 ILCS 5/3-11, amended by P.A. 99-616, contains requirements that the regional superintendents must include during teachers institutes. Instruction on prevalent student chronic health conditions, ~~should have begun during school year 2009-2010. See well as educator ethics and teacher-student conduct training is also required.~~ (See also *fn* 3 above discussing the board's requirement in Section 10-22.39). Beginning with the 2016-17 school year, teachers' institutes must also include instruction on the Americans with Disabilities Act of 1990 (ADA) as it pertains to the school environment at least every two years. Contact the Regional Superintendent or the appropriate Intermediate Service Center with questions about online training for this component of a teachers' institute. Discuss with the board attorney the best practices of documenting trainings and evaluations of trainings; many attorneys in the field prefer documentation of ADA trainings to assist in their defense of any potential ADA claims against the district.

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

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

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

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

**LEGAL REF.:** Healthy, Hunger-Free Kids Act of 2010, 42 U.S.C. §1758b, Pub. L. 111-296, 7 C.F.R. Parts 210 and 235.  
105 ILCS 5/2-3.62, 5/10-20.17a, 5/10-20.60 (P.A. 100-14, final citation pending), 5/10-22.6(c-5), 5/10-22.39, 5/10-23.12, 5/22-80(h), 5/10-23.12, 5/24-5., 105 ILCS 25/1.15, Interscholastic Athletic Organization Act, and 105 ILCS 110/3, Critical Health Problems and Comprehensive Health Education Act.  
325 ILCS 5/4, Abused and Neglected Child Reporting Act.  
745 ILCS 49/, Good Samaritan Act.  
7 C.F.R. Part 230.  
23 Ill.Admin.Code §§ 22.20, 226.800, and Part 525.  
77 Ill.Admin.Code §527.800.

**CROSS REF.:** 3:40 (Superintendent), 3:50 (Administrative Personnel Other Than the Superintendent), 4:160 (Environmental Quality of Buildings and Grounds), 5:20 (Workplace Harassment Prohibited), 5:90 (Abused and Neglected Child Reporting), 5:120 (Employee Ethics; Conduct; and Conflict of Interest), 5:250 (Leaves of Absence), 6:15 (School Accountability), 6:20 (School Year Calendar and Day), 6:50 (School Wellness), 6:160 (English Learners), 7:10 (Equal Educational Opportunities), 7:20 (Harassment of Students Prohibited), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:270 (Administering Medicines to Students), 7:285 (Food Allergy Management Program), 7:290 (Suicide and Depression Awareness and Prevention), 7:305 (Student Athlete Concussions and Head Injuries)

**ADMIN PROC.:** 4:160-AP (Environmental Quality of Buildings and Grounds), 4:170-AP6 (Plan for Responding to a Medical Emergency at an Indoor Physical Fitness Facility), 5:100-AP (Staff Development Program), 5:150-AP (Personnel Records), 6:120-AP4 (Care of Students with Diabetes), 7:250-AP1 (Measures to Control the Spread of Head Lice at School)

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

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

## Professional Personnel

### Suspension 1

#### Suspension Without Pay 2

The School Board may suspend without pay: (1) a professional employee pending a dismissal hearing, or (2) a teacher as a disciplinary measure for up to 30 employment days for misconduct that is detrimental to the School District. Administrative staff members may not be suspended without pay as a disciplinary measure. 3

Misconduct that is detrimental to the School District includes:

- Insubordination, including any failure to follow an oral or written directive from a supervisor;
- Violation of Board policy or Administrative Procedure;
- Conduct that disrupts or may disrupt the educational program or process;
- Conduct that violates any State or federal law that relates to the employee's duties; and
- Other sufficient causes.

The Superintendent or designee is authorized to issue a pre-suspension notification to a professional employee. This notification shall include the length and reason for the suspension as well as the deadline for the employee to exercise his or her right to appeal the suspension to the Board or Board-appointed hearing examiner before it is imposed. At the request of the professional employee made within 5-five calendar days of receipt of a pre-suspension notification, the Board or Board-appointed

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*1 State and federal law control this policy's content. The School Code provides that, "[i]f, in the opinion of the board, the interests of the school require it, the board may suspend the teacher without pay, pending the hearing, but if the board's dismissal or removal is not sustained, the teacher shall not suffer the loss of any salary or benefits by reason of the suspension." 105 ILCS 5/24-12(d)(1).*

*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. ~~A board policy will be superseded by a collective bargaining agreement that contains provisions exceeding the requirements of the policy; in that case, the policy should state: "Please refer to the current (insert name of CBA or use a generic reference, e.g., "agreement between the bargaining representative and the School Board")."~~ If a local collective bargaining agreement contains provisions on suspension, it will supersede this policy for those covered employees. In such cases, the board policy should be amended to state, "Please refer to the applicable collective bargaining agreement." For employees not covered, the policy should reflect the board's current practice.*

*A superintendent or board should consult the board attorney before taking any action to suspend a licensed employee, with or without pay.*

*2 Under the wage and hour rules, employees who are exempt from overtime requirements become eligible for overtime if they are subject to disciplinary suspensions without pay. Auer v. Robbins, 512 U.S. 452-117 S.Ct. 905 (1997). Teachers are exempt from this rule. Although the U.S. Dept. of Labor modified this rule in 2004, the Illinois legislature rejected these rule changes. (820 ILCS 105/4a). Illinois employers must use the federal rules as they existed on March 30, 2003. This sample policy takes a conservative approach: it does not subject non-teaching professional employees to disciplinary suspensions without pay. Some attorneys believe that non-teaching exempt employees (e.g., administrators) will remain exempt from the Fair Labor Standards Act's overtime requirements as long as suspensions are in increments of a full work week - not day-by-day. Contact the board attorney for an opinion.*

*The 30-day limit may be modified or deleted.*

*3 A difference of opinion exists among attorneys concerning whether a board is permitted to authorize the superintendent to suspend teachers without pay. Some attorneys believe such a delegation is void because of the language in 105 ILCS 5/24-12(d)(1), quoted in ¶n 1. Others believe that a board may delegate the authority to the superintendent to suspend teachers without pay as a disciplinary measure as opposed to pending a dismissal hearing. Contact the board attorney for advice if the board wants to authorize the superintendent to suspend professional employees without pay.*

hearing examiner will conduct a pre-suspension hearing.<sup>4</sup> The Board or its designee shall notify the professional employee of the date and time of the hearing. At the pre-suspension hearing, the professional employee or his/her representative may present evidence. If the employee does not appeal the pre-suspension notification, the Superintendent or designee shall report the action to the Board at its next regularly scheduled meeting.

### Suspension With Pay

The Board or Superintendent or designee may suspend a professional employee with pay: (1) during an investigation into allegations of disobedience or misconduct whenever the employee's continued presence in his or her position would not be in the School District's best interests, (2) as a disciplinary measure for misconduct that is detrimental to the School District as defined above, or (3) pending a Board hearing to suspend a teacher without pay.

The Superintendent <sup>or designee</sup> shall meet with the employee to present the allegations and give the employee an opportunity to refute the charges. The employee will be told the dates and times the suspension will begin and end. <sup>5</sup>

### Employees Under Investigation by Illinois Dept. of Children and Family Services (DCFS) <sup>6</sup>

Upon receipt of a DCFS recommendation that the District remove an employee from his or her position when he or she is the subject of a pending DCFS investigation that relates to his or her employment with the District, the Board or Superintendent or designee<sup>7</sup> in consultation with the Board Attorney, will determine whether to:

1. Let the employee remain in his or her position pending the outcome of the investigation; or
2. Remove the employee as recommended by DCFS, proceeding with:
  - a. A suspension with pay; or
  - b. A suspension without pay.

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<sup>4</sup> Some case law suggests a separate hearing must be held before any suspension without pay is invoked: Cleveland Board of Education v. Loudermill, 470 U.S. 532/405 S.Ct. 1483 (1985); Barakat v. Community College District No. 524, 400 F.Supp. 675 (N.D. Ill., 1975); Mannix v. East St. Louis School District No. 189, 213 Ill.App.3d 965 (5th Dist. 562 N.E.2d 246 (Ill.App.5, 1990); Spinelli v. Immanuel Lutheran Evangelical Congregation, Inc., 118 Ill.2d 389/515 N.E.2d 322 (1987).

<sup>5</sup> Only minimal due process is required before a suspension with pay because the property interests at stake are insignificant. Some due process is recommended, however, because a suspension might jeopardize a teacher's good standing in the community and thus infringe the teacher's liberty interests protected by the Constitution. The following option places a ceiling on the number of suspension-with-pay days; the 30-day limit may be modified:

No suspension with pay shall exceed 30 school or working days in length.

<sup>6</sup> Optional. 325 ILCS 57A(c-5), amended by P.A. 100-175, eff. 1-1-18. Consult the board attorney about suspending an employee without pay pursuant to a DCFS 325 ILCS 57A(c-5) recommendation. This language balances the interests of student safety and employee due process when the district receives a recommendation to remove an employee who is the subject of a DCFS investigation from employment.

Note: Liability may exist when a district receives a 325 ILCS 57A(c-5) recommendation and does not remove the employee as a result. Consider *In re Estate of Stewart v. Oregon Comm. Unit Sch. Dist. No. 308*, 406 Ill. Dec. 343 (2nd Dist. 2016) (finding district's response to a student health emergency was willful and wanton as it had prior information regarding appropriate response protocols and denying test immunity to district); *In re Estate of Stewart*, 412 Ill. Dec. 914 (Ill. 2017) (school district's appeal denied).

<sup>7</sup> The text "Board or Superintendent or designee" allows flexibility if the Superintendent were the subject of a DCFS investigation.

**Repayment of Compensation and Benefits**

If a professional employee is suspended with pay, either voluntarily or involuntarily, pending the outcome of a criminal investigation or prosecution, and the employee is later dismissed as a result of his or her criminal conviction, the employee must repay to the District all compensation and the value of all benefits received by him or her during the suspension.<sup>8</sup> The Superintendent will notify the employee of this requirement when the employee is suspended.

**LEGAL REF.:** 5 ILCS 430/5-60(b).  
105 ILCS 5/24-12.  
~~325 ILCS 5/7.4(c-10)~~.  
Cleveland Board of Education v. Loudermill, 470 U.S. 532, 105 S.Ct. 1487 (1985).  
Barszcz v. Community College District No. 504, 400 F.Supp. 675 (N.D. Ill., 1975).  
Massie v. East St. Louis School District No.182, 203 Ill.App.3d 965 (5th Dist. 561 N.E.2d 246 (Ill.App.5, 1990).

**CROSS REF.:** 5:290 (Educational Support Personnel - Employment Termination and Suspensions)

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<sup>8</sup> This sentence restates State law, (5 ILCS 430/5-60(b)).

## Instruction

### **School Year Calendar and Day <sup>1</sup>**

#### **School Calendar**

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

#### **Commemorative Holidays**

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

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<sup>1</sup> State or federal law controls this policy's content. This policy controls the form 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.

<sup>2</sup> State-mandated school holidays are found in 105 ILCS 5/24-2. This policy 5/230, *Stat Days, Vacations, Holidays, and Leaves, for a holiday listing.* The law allows a school board to hold school or schedule teacher institutes, parent-teacher conferences, or staff development on five identified school holidays if: (1) the school board first holds a public hearing on the proposal; and (2) the persons impacted by the holiday are recognized through instructional activities conducted on the school holiday or on the first school day preceding or following the school holiday. This is on form on which collective bargaining may be required, and a board that wishes to implement this law should consult its attorney.

A State mandated school holiday on "Good Friday" is unconstitutional according to *Missal v. LaSalle*, 37 F3d 618 (7th Cir., 1995). Closing school on religious holidays may still be permissible for those districts able to demonstrate (e.g., through surveys) that remaining open would be a waste of educational resources due to widespread absenteeism. Also, districts may be able to close school on Good Friday by adopting a "spring holiday" rationale or ensuring that it falls within spring break. School districts should discuss all of these options, and collective bargaining implications with their board attorneys.

If the county board or board of election commissioners choose a school to be a polling place, the school district must make the school available. (10 ILCS 5/11-4.1, amended by P.A. 98-778). For the Election Day, the law encourages a school district to either (1) close the school, or (2) hold a teacher institute on that day with the students not in attendance (id.).

<sup>3</sup> The school calendar must have a minimum 185 days to ensure 176 days of actual pupil attendance. (105 ILCS 5/20-19 and 5/24-1; 25 IL Admin. Code 5/1.012). Schools must be closed during county institutes. (105 ILCS 5/24-5). The school calendar may be a mandatory subject of collective bargaining. The calendar for the school term and any changes must be submitted to and approved by the regional superintendent before the calendar or changes may take effect. (105 ILCS 5/10-15).

<sup>4</sup> 105 ILCS 5/24-2, amended by P.A. 98-186, lists the following as commemorative holidays: Jan. 28 (Christa McAuliffe Day commemorating space exploration), Feb. 15 (Susan B. Anthony), March 29 (Vietnam War Veterans' Day), the school day immediately preceding Veterans' Day (Korean War Veterans' Day), Oct. 1 (Revolving Day), Oct. 7 (Iraq and Afghanistan Veterans Remembrance Day), and Dec. 7 (Pearl Harbor Veterans' Day).

Other commemorative holidays include Ashes and Rites Day on the last Friday in April (Apr. 105 ILCS 5/27-15), Lefty Dickson day on Oct. 9 if a school day and otherwise on a school day nearest the date (105 ILCS 5/27-15), American Indian Day on the 4th Friday of Sept. (105 ILCS 5/27-38), IL Law Week during the first full school week in May (105 ILCS 5/27-20.1), "Just Say No" Day on a school day in May (105 ILCS 5/20-2), a Day of Remembrance on Sept. 11 (5 ILCS 490/14), Ronald Reagan Day on Feb. 6 (5 ILCS 490/2), Day of Remembrance of the Victims of 9/11 and the Transatlantic Slave Trade on March 25 (5 ILCS 490/153), the first full week of January as Emancipation Proclamation Week (5 ILCS 490/153), the third Thursday in May of each year is designated Volunteer Emergency Responder Appreciation Day (5 ILCS 490/126), and Mother Mary Ann Bickerdyle Day on the second Wednesday in May (5 ILCS 490/173, added by P.A. 98-144).

**School Day**

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

Commented [DJ1]: Footnote content regarding mandatory moment of silence in schools has been updated for continuous improvement.

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**5** A school day must consist of a minimum 5-five clock hours under the direct supervision of a teacher or non-teaching volunteer providing non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(4), in order to qualify as a full day for calculating state aid entitlement. (105 ILCS 5/18-4.05(F); and 23 ILAdmin.Code 11.420(C). Students in attendance for fewer than two hours of school work are not counted for calculating average daily attendance. (23 ILAdmin.Code 11.420(D). Note: School districts may no longer count days of attendance less than 5-five clock hours on the opening and closing of the school term, and upon the first day of pupil attendance, if preceded by a day or days utilized as an institute or teachers' workshop. 105 ILCS 5/18-4.05(F)(1), amended by P.A. 100-145, eff. 1-1-18, requires districts to report to ISBE their average daily attendance figures for each month of the school year, broken down by grade level.

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

Alternative education programs may provide fewer than five hours under certain circumstances. (105 ILCS 5/2-3.39a and 5/13-38). Exceptions also exist for kindergarten, teaching hospitalism or homeschool students, first-grade, disabled children less than 6-six years old, in-service training for teachers in accordance with 105 ILCS 5/10-22.38, parent-teacher conferences, and days when the Prairie State Achievement Examination is administered (105 ILCS 5/18-4.05(F)).

6 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. Note that the Illinois statute does not require every student to recite the Pledge – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the Pledge, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, holding the flag, and reciting the Pledge. *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943); *Shannon v. Community Consolidated School Sch. District No. 21 of Wheeling Township*, 900 F.2d 437 (7th Cir. 1993). Consider using persuasive rather than mandatory language to introduce the recitation of the Pledge, such as, “You may now stand to recite the Pledge.” Schools may, of course, require that non-participants maintain order and decorum appropriate to the school environment.

On 10-13-07, an Illinois law went into effect: The Silent Reflection and Student Prayer Act requiring a mandatory moment of silence for all Illinois public school students at the opening of each school day. (Silent Reflection and Student Prayer Act, 105 ILCS 20-1). A student filed a federal lawsuit challenging the constitutionality of this law under the First Amendment. The law was ultimately upheld by the Appellate Court. *Shannon v. Koch*, 623 F.3d 501 (7th Cir. 2010), cert. denied by 563 U.S. 813 (2011). A student filed a federal lawsuit alleging that the brief period of silence law was unconstitutional because it is too vague and violates the First Amendment. *Shannon v. IHSB#2-214* and *Koch*, 654 F.Supp.2d 967 (N.D.Ill., 2007). The court found a preliminary injunction to prevent the plaintiff-student's school district from implementing the Act and filed a permanent injunction. Koch then referring it. The court granted plaintiff's request to make the lawsuit a class action – the defendant class comprising all Illinois public school districts. After the case's merits are heard, the preliminary injunction may be void, permanent or its continued. School districts must follow court orders and the State Superintendent's instructions.

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

**LEGAL REF:** 105 ILCS 5/10-19, 5/10-24.46, 5/18-8.05, 5/18-12, 5/18-12.5, 5/24-2, 5/27-3, 5/27-18, 5/27-19, 5/27-20, 5/27-20.1, 5/27-20.2, and 20/1.  
10 ILCS 5/11-4.1.  
25 IllAdminCode §1420(O).  
*Mistel v. Leisinger*, 850 F.Supp. 740 (N.D. Ill., 1994), *aff'd by* 57 F.3d 618 (7th Cir., 1995).

**CROSS REF:** 2:20 (Powers and Duties of the School Board; Indemnification), 5:200 (Terms and Conditions of Employment and Dismissal), 5:330 (Sick Days, Vacation, Holidays, and Leaves), 6:60 (Curriculum Content), 6:70 (Teaching About Religions), 7:30 (Release During School Hours)



## Instruction

### Curriculum Content<sup>1</sup>

The curriculum shall contain instruction on subjects required by State statute or regulation as follows:

1. In kindergarten through grade 8, subjects include: (a) language arts, (b) reading, (c) other communication skills, (d) science, (e) mathematics,<sup>2</sup> (f) social studies, (g) art, (h) music,<sup>3</sup> and (i) drug and substance abuse prevention.<sup>4</sup> A reading opportunity of 60 minutes per day will be promoted for all students in kindergarten through grade 3 whose reading levels are one grade level or more lower than their current grade level.<sup>5</sup>
2. In grades 9 through 12, subjects include: (a) language arts, (b) writing intensive course, (c) science, (d) mathematics,<sup>6</sup> (e) social studies including U.S. history, American government and, for students entering the 9th grade in the fall of 2016 and each year after it, one semester

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<sup>1</sup> Districts must have a policy on physical education, (23 Ill.Admin.Code §1.420(p)). Policies on the remaining topics in this policy are optional. State or federal law controls this policy's content. 23 Ill.Admin.Code §1.420 recommends that activities, including student internships and observations of government in action, be a part of the instructional program where appropriate.

<sup>2</sup> 105 ILCS 5/2-3.156 requires ISBE to coordinate, adapt and develop middle and high school math curriculum models. There is no consistent definition for *middle school* or *high school* in either State or federal law. Districts are not required to use ISBE's models and may develop their own mathematics curricula.

The purpose of the math curriculum models will be to aid school districts and teachers in implementing the *Common Core Standards*. The ISBE has adopted new math and English language arts (ELA) standards for K-12 education referred to as the *New Ill. State Learning Standards Incorporating the Common Core*. The goal of incorporating the *Common Core Standards* into the *State Goals for Learning* is to better prepare Ill. students for success in college and the workforce in a competitive global economy. See <http://www.isbe.net/Documents/oca-faq-0813.pdf>, <http://www.isbe.net/ocafaq-0813.pdf>.

The terms *Common Core Standards* and the *New Ill. State Learning Standards Incorporating the Common Core* are synonymous. Referencing the *Ill. Learning Standards* includes them both. That is because they are incorporated by reference into ISBE's rules and *State Goals for Learning*. A district that wants to include the term *Common Core Standards* in its policy may do so; however, districts should understand that referring to the *Common Core Standards* only will cover only math and ELA learning standards and goals and not any other subject areas that the *Ill. Learning Standards* cover. The best practice is to continue using *Ill. Learning Standards*, which includes the *Common Core Standards*.

<sup>3</sup> 23 Ill.Admin.Code §1.430.

<sup>4</sup> 105 ILCS 5/27-13.2. House Resolution 824 (2014) urges all Illinois schools to educate youth about the dangers of using heroin and the rising numbers of accidental deaths from heroin overdoses through comprehensive drug education programs, including the *Drug Abuse Resistance Education* (DARE) program. No guidance on age appropriate instruction for heroin abuse is provided in the resolution.

<sup>5</sup> 105 ILCS 5/10-20.53.

<sup>6</sup> 105 ILCS 5/2-3.156. See fn 2.

105 ILCS 5/27-22, amended by P.A. 98-888, allows the substitution of an advanced placement computer science course for a year of mathematics. For specific requirements, see 6:300-E2, *State Law Graduation Requirements*, and 6:310, *High School Credits for Non-District Experiences; Course Substitutions; Re-entering Students*.

of civics,<sup>7</sup> (f) foreign language, (g) music, (h) art, (i) driver and safety education, and (j) vocational education.<sup>8</sup>

Students otherwise eligible to take a driver education course must receive a passing grade in at least eight courses during the previous two semesters before enrolling in the course. The Superintendent or designee may waive this requirement if he or she believes a waiver to be in the student's best interest.<sup>9</sup> The course shall include: (a) classroom instruction on distracted driving as a major traffic safety issue<sup>10</sup>, and (b) instruction concerning law enforcement procedures for traffic stops, including a demonstration of the proper actions to be taken during a traffic stop and appropriate interactions with law enforcement.<sup>11</sup> Automobile safety instruction covering traffic regulations and highway safety must include instruction on the consequences of alcohol consumption and the operation of a motor vehicle.<sup>12</sup> The eligibility requirements contained in State law for the receipt of a certificate of completion from the Secretary of State shall be provided to students in writing at the time of their registration.<sup>13</sup>

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<sup>7</sup> 105 ILCS 5/27-22, amended by P.A. 99-434 and P.A. 99-486 ~~-(1) delayed the effective date of P.A. 99-434 until 7-1-2016, and (2) made the civics course requirement effective only for students entering the 9th grade.~~ The statute specifically states that school districts may utilize private funding available for offering civics education.

<sup>8</sup> 23 Ill.Admin.Code §1.440, 105 ILCS 5/27-22. The General Assembly encouraged school boards to implement American ~~sign~~ ~~Sign language~~ ~~Language~~ courses into the school foreign language curriculum. (105 ILCS 5/10-20.46). Senate Joint Resolution 68, 96th General Assembly, encourages school districts to explore the introduction of Arabic as a foreign language in their curriculums.

The ISBE rule on driver education personnel is found at 23 Ill.Admin.Code §252.40. School districts may contract with a commercial driver training school (CDTS) for driver education, ~~by obtaining a waiver or modification of the administrative rules and regulations promulgated by the ISBE or a modification of School Code mandates (105 ILCS 5/2-3-25g) 105 ILCS 5/27-24.2, amended by P.A. 100-465. See 2-20-B, Waiver and Modification Request Resource Guide.~~ To qualify to contract with a school district, a CDTS must (a) hold a valid license issued by the Ill. Sec. of State, and (b) provide instructors who hold a valid Ill. teaching certificate or license. ~~(Id.).~~ A district contracting with a CDTS must provide a list to ISBE of the CDTS instructors. ~~(Id.).~~ The list must include the name, personal ISBE identification number, birth date and driver's license number of each instructor who will teach driver education. ~~(Id.).~~ Although a formal waiver for outsourcing of driver's education is no longer required, districts must consider their applicable collective bargaining agreement(s), board policy, and the reduction in force (RIF) provisions of the School Code as they relate to outsourcing of instructional staff. Consult the board attorney for guidance.

<sup>9</sup> 105 ILCS 5/27-24.2, amended by P.A. 100-465.

<sup>10</sup> Id.

<sup>11</sup> Id., amended by P.A. 99-720, eff. 1-1-17. Required beginning with the 2017-2018 school year.

<sup>12</sup> 105 ILCS 5/27-17.

<sup>13</sup> The Ill. Vehicle Code, 625 ILCS 5/6-408.5, amended by P.A. 98-718, contains these requirements; they are paraphrased below and may be added to the policy or otherwise disseminated.

Before a certificate of completion will be requested from the Secretary of State, a student must receive a passing grade in at least eight courses during the two semesters last ending before requesting the certificate. A certificate of completion will not be requested for any person less than 18 years of age who has dropped out of school unless the individual provides:

1. Written verification of his or her enrollment in a high school equivalency or alternative education program or a high school equivalency certificate (formerly GED certificate);
2. Written verification that before dropping out, the individual had received passing grades in at least ~~eight~~ eight courses during the two previous semesters last ending before requesting a certificate;
3. Written consent from the individual's parent/guardian and the Regional Superintendent; or
4. Written waiver from the Superintendent of the School District in which the individual resides or resided at the time he or she dropped out of school, or from the chief school administrator with respect to a dropout who attended a non-public high school. A waiver may be given if the Superintendent or chief administrator deems it to be in the individual's best interests.

3. In grades 7 through 12, as well as in interscholastic athletic programs, steroid abuse prevention must be taught.<sup>14</sup>
4. In kindergarten through grade 12, provided it can be funded by private grants or the federal government, violence prevention and conflict resolution must be stressed, including: (a) causes of conflict, (b) consequences of violent behavior, (c) non-violent resolution, and (d) relationships between drugs, alcohol, and violence.<sup>15</sup>
5. In grades kindergarten through 12, age-appropriate Internet safety must be taught, the scope of which shall be determined by the Superintendent or designee. The curriculum must incorporate policy 6:235, *Access to Electronic Networks* and, at a minimum, include: (a) education about appropriate online behavior, (b) interacting with other individuals on social networking websites and in chat rooms, and (c) cyberbullying awareness and response.<sup>16</sup>
6. In all grades, character education must be taught including respect, responsibility, fairness, caring, trustworthiness, and citizenship in order to raise students' honesty, kindness, justice, discipline, respect for others, and moral courage.<sup>17</sup>
7. In all schools, citizenship values must be taught, including: (a) patriotism, (b) democratic principles of freedom, justice, and equality, (c) proper use and display of the American flag, (d) the Pledge of Allegiance, and (e) the voting process.<sup>18</sup>

Behavior Matrix Framework

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<sup>14</sup> 105 ILCS 5/27-23.3.

<sup>15</sup> 105 ILCS 5/27-23A.

<sup>16</sup> 47 C.F.R. § 54.520(e)(1)(i) and 105 ILCS 5/27-13.3 control this section. "Grades kindergarten through 12" is used because federal law requires school districts that receive E-rate funding to certify that they have an Internet safety education policy for all minors. (47 C.F.R. §54.520(e)(1)(i)). This federal law defines minors as any individual who has not attained the age of 17 years. (47 C.F.R. §54.520(a)(4)).

105 ILCS 5/27-13.3 requires a unit on Internet safety for students in grades 3 or above. It recommends seven topics for the unit on Internet safety and required ISBE to "make available resource materials for educating children regarding child online safety." It also invites schools to "adopt an age-appropriate curriculum for Internet safety instruction of students in grades kindergarten through 12."

For boards that do not receive E-rate funds and do not want to exceed the requirements of the School Code, replace this section with the following sentence: "In grades 3 or above, the curriculum contains a unit on Internet safety, the scope of which shall be determined by the Superintendent or designee."

<sup>17</sup> 105 ILCS 5/27-12.

Because of the negative outcomes associated with bullying in schools, the Ill. General Assembly has also found "that [school districts] should educate students, parents, and school district personnel about what behaviors constitute prohibited bullying." (105 ILCS 5/27-23.7(a), amended by P.A. 98-669). A board may want to add the following option:

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

The Ill. General Assembly invited boards to "make suitable provisions for instruction in gang resistance education and training in all grades and include such instruction in the courses of study regularly taught in those grades." See 105 ILCS 5/27-23.10(e). A board that shares this concern may add the following option: "In addition, in all grades gang resistance education and training must be taught."

<sup>18</sup> 105 ILCS 5/27-3 requires the Pledge of Allegiance to be recited every day in elementary and secondary schools. Requirements for displaying a U.S. flag at each school and in each classroom are found in 5 ILCS 465/3 and 465/3a.

Note that the Illinois statute does not require every student to recite the *Pledge* – that kind of mandatory participation would violate the U.S. Constitution. Schools may not coerce a student into saying the *Pledge*, nor may they punish students for refusing to participate in any aspect of the flag ritual, including standing, saluting the flag, and reciting the *Pledge*. *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943); *Sherman v. Community Consolidated Sch. Dist. 21 of Wheeling Township*, 980 F.2d 437 (7th Cir. 1992). Consider using permissive rather than mandatory language to introduce the recitation of the *Pledge*, such as, "You may now stand to recite the *Pledge*." Schools may, of course, require that non-participants maintain order and decorum appropriate to the school environment.

8. In all grades, physical education must be taught including a developmentally planned and sequential curriculum that fosters the development of movement skills, enhances health-related fitness, increases students' knowledge, offers direct opportunities to learn how to work cooperatively in a group setting, and encourages healthy habits and attitudes for a healthy lifestyle. Unless otherwise exempted, all students are required to engage ~~daily during the school day~~ in a physical education course with such frequency as determined by the Board after recommendation from the Superintendent,<sup>19</sup> but at a minimum of three days per five-day week. For exemptions and substitutions, see policies 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students* and 7:260, *Exemption from Physical Education.*<sup>20</sup>
9. In all schools, health education must be stressed, including: (a) proper nutrition, (b) physical fitness, (c) components necessary to develop a sound mind in a healthy body, (d) dangers and avoidance of abduction, and (e) age-appropriate sexual abuse and assault awareness and prevention education in all grades. The Superintendent shall implement a comprehensive health education program in accordance with State law.<sup>21</sup>

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<sup>19</sup> The phrase "after recommendation by the Superintendent" is optional. If a superintendent does not bring this topic to the board for discussion, the board may not have a trigger to make the determination.

<sup>20</sup> 105 ILCS 5/27-5 requires school boards to provide for students' physical education and allows the P.E. course offered in grades 5 through 10 to include the health education courses required by State law. See also 23 Ill.Admin.Code §1.425, added at 40 Ill. Reg. 2990.

105 ILCS 5/27-6, amended by P.A. 100-465, describes when students may be excused from ~~daily~~ P.E. See also 23 Ill.Admin.Code §1.425(e).

105 ILCS 5/27-6, amended by P.A. 100-465, contains an exception to the ~~daily~~ minimum of three days per five-day week P.E. requirement for schools engaged in block scheduling; if this is applicable, substitute this sentence for the ~~second-~~ to- last sentence in this paragraph:

Unless otherwise exempted, all students are required to engage ~~daily~~ with such frequency as determined by the Board, but at a minimum of three days per five-day week, during the school day, except on block scheduled days ~~for those schools in block scheduling~~, in a physical education course.

105 ILCS 5/27-6.5 describes physical fitness assessments required, beginning with the 2016-17 school year and every school year thereafter, for grades 3-12 in an effort to meet State Goal 20 of the Illinois Learning Standards for Physical Development and Health (at: [www.isbe.net/Pages/PE-Health-Learning-Standards.aspx](http://www.isbe.net/Pages/PE-Health-Learning-Standards.aspx)). See also 23 Ill.Admin.Code §1.425 (g) and (h); ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers (Rev. 11/14/12)* at: [www.isbe.net/Documents/fitness-assmt-faq.pdf](http://www.isbe.net/Documents/fitness-assmt-faq.pdf).

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

<sup>21</sup> 105 ILCS 110/3 and 23 Ill.Admin.Code §1.420(n). Each school system shall provide a program in compliance with the Critical Health Problems and Comprehensive Health Education Act. More detailed health education program content is described in administrative procedure 6:60-AP, *Comprehensive Health Education Program*. It includes the requirements for the development of a family life and sex education program (105 ILCS 5/27-9.1 and 110/3), among other health education topics including *teen dating violence* (105 ILCS 110/3.1, see 7:185, *Teen Dating Violence Prohibited* for the required "teen dating violence policy") and cardiopulmonary resuscitation and automated external defibrillator use (105 ILCS 110/3, amended by P.A. 98-432).

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

- (a) 105 ILCS 5/2-3.139 and 105 ILCS 5/27-7 (proper nutrition) and see also policy 6:50, *School Wellness*.  
 (b) *Id.* (physical fitness) and see also policy 6:50, *School Wellness*.  
 (c) *Id.* (sound mind and healthy body).  
 (d) 105 ILCS 5/27-13.2 (dangers and avoidance of abduction). The State Police and ISBE must develop instruction on child abduction prevention. (20 ILCS 2635/2605-480).

Middle

- 10. In all schools, career/vocational education must be taught, including: (a) the importance of work, (b) the development of basic skills to enter the world of work and/or continue formal education, (c) good work habits and values, (d) the relationship between learning and work, and (e) if possible, a student work program that provides the student with work experience as an extension of the regular classroom. A career awareness and exploration program must be available at all grade levels.<sup>23</sup>
- 11. In grades 9 through 12, consumer education must be taught, including: (a) financial literacy, including consumer debt and installment purchasing (including credit scoring, managing credit debt, and completing a loan application); budgeting; savings and investing; banking (including balancing a checkbook, opening a deposit account, and the use of interest rates); understanding simple contracts; State and federal income taxes; personal insurance policies; the comparison of prices; higher education student loans; identity-theft security; and homeownership (including the basic process of obtaining a mortgage and the concepts of fixed and adjustable rate mortgages, subprime loans, and predatory lending); and (b) the roles of consumers interacting with agriculture, business, labor unions and government in formulating and achieving the goals of the mixed free enterprise system.<sup>23</sup>
- 12. In all schools, conservation of natural resources must be taught, including: (a) home ecology, (b) endangered species, (c) threats to the environment, and (d) the importance of the environment to life as we know it.<sup>24</sup>
- 13. In all schools, United States history must be taught, including: (a) the principles of representative government, (b) the Constitutions of the U.S. and Illinois, (c) the role of the U.S. in world affairs, (d) the role of labor unions, and (e) the role and contributions of ethnic groups, including but not limited to, the African Americans, Albanians, Asian Americans, Bohemians, Czechs, French, Germans, Hispanics (including the events related to the forceful removal and illegal deportation of Mexican-American U.S. citizens during the Great Depression), Hungarians, Irish, Italians, Lithuanians, Polish, Russians, Scots, and Slovaks in the history of this country and State.<sup>25</sup>

In addition, all schools shall hold an educational program on the United States Constitution on Constitution Day, each September 17, commemorating the September 17, 1787 signing of the Constitution. However, when September 17 falls on a Saturday, Sunday, or holiday, Constitution Day shall be held during the preceding or following week.<sup>26</sup>

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

(e) 105 ILCS 110/3 and 105 ILCS 5/10-23.13 *aka* Erin's Law (child sexual abuse prevention). Erin's Law requires a policy addressing child sexual abuse prevention. A sentence in 6:60-AP, *Comprehensive Health Education Program* restates the basic recommendations for a child sexual abuse prevention program from page 16 of the Erin's Law Taskforce Final Report (Report) to Governor Quinn at: [www.isbe.net/Documents/edms-law-final0512.pdf](http://www.isbe.net/Documents/edms-law-final0512.pdf). The professional educator training component of Erin's Law is addressed in policy 5:100, *Staff Development Program*. The Report also encourages parental involvement because parents play a key role in protecting children from child sexual abuse.

<sup>23</sup> 23 Ill.Admin.Code §1.420(f). See 105 ILCS 435/ for the Vocational Education Act.

<sup>23</sup> 105 ILCS 5/27-12.1, amended by P.A. 99-284; 23 Ill.Admin.Code §1.420(k). P.A. 99-284 added these new subjects to the required consumer education course: consumer debt, higher education student loans, and identity-theft security.

<sup>24</sup> 105 ILCS 5/27-13.1; 23 Ill.Admin.Code §1.420(i).

<sup>25</sup> 105 ILCS 5/27-21; 23 Ill.Admin.Code §1.420(j).

<sup>26</sup> Section 111 of Division J of Pub. L. 108-447, the Consolidated Appropriations Act, 2005, 12-8-04; 118 Stat. 2809, 3344-45 (Section 111). Section 111(b) states: "[e]ach educational institution that receives Federal funds for a fiscal year shall hold an educational program on the U.S. Constitution on September 17 of such year ... ."

14. In ~~grade 7~~ and all high school courses concerning U.S. history or a combination of U.S. history and American government, students must view a Congressional Medal of Honor film made by the Congressional Medal of Honor Foundation, provided there is no cost for the film.<sup>27</sup>
15. In ~~all schools~~ *Middle Schools*, the curriculum includes a unit of instruction on the Holocaust and crimes of genocide, including Nazi atrocities of 1933-1945, Armenian Genocide, the Famine-Genocide in Ukraine, and more recent atrocities in Cambodia, Bosnia, Rwanda, and Sudan.<sup>28</sup>
16. In ~~all schools~~ *Middle Schools*, the curriculum includes a unit of instruction on the history, struggles, and contributions of women.<sup>29</sup>
17. In ~~all schools~~ *Middle Schools*, the curriculum includes a unit of instruction on Black History, including the history of the African slave trade, slavery in America, and the vestiges of slavery in this country, as well as the struggles and contributions of African-Americans.<sup>30</sup>
18. In all schools offering a secondary agricultural education program, the curriculum includes ~~courses as required by 105 ILCS 5/2-3.80.~~<sup>31</sup>
19. In all schools, instruction during courses as determined by the Superintendent or designee on disability history, awareness, and the disability rights movement.<sup>32</sup>

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<sup>27</sup> 105 ILCS 5/27-3.5. The Congressional Medal of Honor film is available on ISBE's website for no cost at: [www.isbe.net/Pages/Medal-of-Honor.aspx](http://www.isbe.net/Pages/Medal-of-Honor.aspx).

<sup>28</sup> 105 ILCS 5/27-20.5 requires the curriculum to include a unit of instruction on this subject but does not specify the amount of time that constitutes a unit of instruction.

<sup>29</sup> 105 ILCS 5/27-20.5 requires the curriculum to include a unit of instruction on this subject but does not specify the amount of time that constitutes a unit of instruction. House Resolution 365 (2013) and Senate Resolution 1073 (2014) both urge all Illinois educators to share with students of an appropriate age the story of comfort women when discussing the history of Asia or World War II, or the issue of human trafficking.

<sup>30</sup> 105 ILCS 5/27-20.4 requires the curriculum to include a unit of instruction on this subject but does not specify the amount of time that constitutes a unit of instruction.

<sup>31</sup> 105 ILCS 5/2-3.80(e) or (f).

<sup>32</sup> 105 ILCS 5/27-23.8. The statute requires the school board to determine the minimum amount of instructional time. The sample policy complies by delegating this responsibility to the superintendent or designee. The statute requires that the instruction be founded on the principle that all students, including students with disabilities, have the right to exercise self-determination. It urges districts to request individuals with disabilities to assist with the development and delivery of this instruction and allows instruction to be supplemented by knowledgeable guest speakers.

**LEGAL REF.:** 5 ILCS 465/3 and 465/3a.  
20 ILCS 2605/2605-480.  
105 ILCS 5/2-3.80(e) and (f), 5/27-3, 5/27-3.5, 5/27-5, 5/27-6, 5/27-6.5, 5/27-7, 5/27-12, 5/27-12.1, 5/27-13.1, 5/27-13.2, 5/27-20.3, 5/27-20.4, 5/27-20.5, 5/27-21, 5/27-22, 5/27-23.3, 5/27-23 A, 5/27-23.7, 5/27-23.8, 5/27-23.10, 5/27-24.2, 435/, and 110/3.  
625 ILCS 5/6-408.5.  
23 Ill.Admin.Code §§1.420, 1.425, 1.430, and 1.440.  
Consolidated Appropriations Act of 2005, Pub. L. No. 108-447, Section 111 of Division J.  
Protecting Children in the 21st Century Act, Pub. L. No. 110-385, Title II, 122 stat. 4096 (2008).  
47 C.F.R. §54.520.

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

## Instruction

### Teaching About Controversial Issues<sup>1</sup>

The Superintendent shall ensure that all school-sponsored presentations and discussions of controversial or sensitive topics in the instructional program, including those made by guest speakers, are:

- Age-appropriate. Proper decorum, considering the students' ages, should be followed.
- Consistent with the curriculum and serve an educational purpose.<sup>2</sup>
- Informative and present a balanced view.
- Respectful of the rights and opinions of everyone. Emotional criticisms and hurtful sarcasm should be avoided.
- Not tolerant of profanity or slander. ~~Disruptive conduct is prohibited and may subject a student to discipline.~~

The District specifically reserves its right to stop any school-sponsored activity that it determines violates this policy, is harmful to the District or the students, or violates State or federal law.

**CROSS REF.:** 6:40 (Curriculum Development), 6:255 (Assemblies and Ceremonies)

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<sup>1</sup> 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. Before adopting this policy, a school board should review the scope of any clause on academic freedom contained in a collective bargaining agreement.

While this sample policy and its contents are discretionary with each board, its implementation should respect the constitutional rights of students and teachers to free speech and free association. The intent of this policy is to inform students, staff members, and the community that the board has established standards for the teaching and discussion of controversial topics in order to avoid culture wars from being fought in school.

<sup>2</sup> Public employee First Amendment issues involve the balance between the importance of the speech and the district's interest in maintaining order and effective school operations. The First Amendment "does not entitle primary and secondary teachers, when conducting the education of captive audiences, to cover topics, or advocate viewpoints, that depart from the curriculum adopted by the school system." See *Mayer v. Monroe County Community School Corp.*, 474 F.3d 477, 480 (7th Cir. 2007). Nor is the First Amendment likely to entitle a teacher to protection for purely personal speech that does not touch on a matter of public concern. See *Pickering v. High School Dist.* 205, 391 U.S. 563 (1968). However, when public employees speak as private citizens on their own time about matters of public concern, they may face only those speech restrictions that are necessary for their employers to operate efficiently and effectively. (*Garrett v. Ceballos*, 547 U.S. 410 (2006).



## Instruction

### Accelerated Placement Program <sup>1</sup>

The District provides an Accelerated Placement Program (APP). The APP advances the District's goal of providing educational programs with opportunities for each student to develop to his or her maximum potential.<sup>2</sup> The APP provides an educational setting with curriculum options usually reserved for students who are older or in higher grades than the student participating in the APP.<sup>3</sup> APP options include, but may not be limited to: (a) accelerating a student in a single subject; (b) other grade-level acceleration; and (c) early entrance to kindergarten or first grade.<sup>4</sup> Participation in the APP is open to all students who demonstrate high ability and who may benefit from accelerated placement. It is not limited to students who have been identified as gifted and talented.<sup>5</sup> Eligibility to participate in the District's APP shall not be conditioned upon the protected classifications identified in School Board policy 7:10, *Equal Educational Opportunities*, or any factor other than the student's identification as an accelerated learner.<sup>6</sup>

The Superintendent or designee shall implement an APP that includes:

1. Decision-making processes that are fair, equitable, and involve multiple individuals, e.g. District administrators, teachers, and school support personnel, and a student's parent(s)/guardian(s);<sup>7</sup>
2. Notification processes that notify a student's parent(s)/guardian(s) of a decision affecting a student's participation in the APP; and<sup>8</sup>
3. Assessment processes that include multiple valid, reliable indicators.<sup>9</sup>

The Superintendent or designee shall annually notify the community, parent(s)/guardian(s), students, and school personnel about the APP, the process for referring a student for possible evaluation for

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<sup>1</sup> State law requires this subject matter be covered by policy and controls its content. 105 ILCS 5/14A, amended by P.A. 100-421, eff. 7-1-18 (the Accelerated Placement Act (APA)).

<sup>2</sup> Optional. Ensure this statement matches the board's current educational philosophy and objectives. See sample policy 6:10, *Educational Philosophy and Objectives*.

<sup>3</sup> 105 ILCS 5/14A-17, added by P.A. 100-421, eff. 7-1-18.

<sup>4</sup> *Id.* For high school districts, delete "~~and (c) early entrance to kindergarten or first grade~~" and insert the word "and" between (a) and (b).

Attorneys disagree whether the APA conflicts with 105 ILCS 5/10-20.12 (*School year – School age*). The APA requires accelerated placement to include early entrance to kindergarten and early entrance to first grade. 105 ILCS 5/10-20.12 *permits* districts to offer early entrance to kindergarten or first grade "based upon an assessment of the student's readiness to attend school." 105 ILCS 5/10-20.12 also states that students may enter first grade early when they: (1) are assessed for readiness; (2) have attended a non-public preschool and continued their education at that school through kindergarten; (3) were taught in kindergarten by an appropriately certified teacher; and (4) will attain the age of 6 years on or before December 31. *Id.* See sample policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*. Consult the board attorney for guidance.

<sup>5</sup> 105 ILCS 5/14A-32(a)(1), added by P.A. 100-421, eff. 7-1-18.

<sup>6</sup> 105 ILCS 5/14A-25, amended by P.A. 100-421, eff. 7-1-18.

<sup>7</sup> 105 ILCS 5/14A-32(a)(2), added by P.A. 100-421, eff. 7-1-18, requires that the accelerated placement policy include "a fair and equitable decision-making process that involves multiple persons and includes a student's parents or guardians" but does not specify what individuals are to be involved or limit those individuals to district employees. Amend this listing to align with the local board's preference.

<sup>8</sup> 105 ILCS 5/14A-32(a)(3), added by P.A. 100-421, eff. 7-1-18.

<sup>9</sup> 105 ILCS 5/14A-32(a)(4), added by P.A. 100-421, eff. 7-1-18.

accelerated placement, and the methods used to determine whether a student is eligible for accelerated placement.<sup>10</sup> Notification may: (a) include varied communication methods, such as student handbooks and District or school websites; and (b) be provided in multiple languages, as appropriate.<sup>11</sup>

LEGAL REF.: 105 ILCS 5/14A.

CROSS REF.: 6:10 (Educational Philosophy and Objectives), 6:130 (Program for the Gifted), 7:10 (Equal Educational Opportunities), 7:50 (School Admissions and Student Transfers To and From Non-District Schools)

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<sup>10</sup> Optional. 105 ILCS 5/14A-32(b)(1) permits, but does not require “procedures for annually informing the community at-large, including parents or guardians, about the accelerated placement program and the methods used for the identification of children eligible for accelerated placement.”

<sup>11</sup> Optional. 105 ILCS 5/14A does not require this but it is a recommended best practice and aligns with sample policy 7:10, *Equal Educational Opportunities*.

## 8:20 Community Use of School Facilities

School facilities are available to community organizations during non-school hours when such use does not: (1) interfere with any school function or affect the safety of students or employees, or (2) affect the property or liability of the School District. The use of school facilities for school purposes has precedence over all other uses. The District reserves the right to cancel previously scheduled use of facilities by community organizations and other groups. The use of school facilities requires the prior approval of the Superintendent or designee and is subject to applicable procedures.

Persons or community organizations on school premises must abide by the District's conduct rules at all times, including, but not limited to Board Policy 8:30, Conduct on School Property, Any person or organization that engages in conduct prohibited by this policy may be ejected from school property and/or may be denied use of school facilities in the future. In addition, any person who engages in conduct prohibited by this policy is also subject to being denied admission to school events or meetings for up to one calendar year pursuant to the procedures set forth in Board Policy 8:30, Conduct on School Property. [OPTIONAL: Prohibited conduct involving violence, alcohol, illegal drugs or weapons shall result in ejection from school property and denial of requests to use school facilities in the future.]

Student groups, school-related organizations, government agencies, and non-profit organizations are granted the use of school facilities at no cost during regularly staffed hours. Fees and costs shall apply during non-regularly staffed hours and to other organizations granted use of facilities at any time. A fee schedule and other terms of use shall be prepared by the Superintendent and be subject to **annual** approval by the School Board.

Due to the extensive scope of work and the vacation schedule of custodial staff during the summer months as the District prepares the buildings for the start of school, use of the facilities is prohibited.