

## 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, or have a complaint regarding any one of the following:

1. Title II of the Americans with Disabilities Act <sup>2</sup>
2. Title IX of the Education Amendments of 1972
3. Section 504 of the Rehabilitation Act of 1973 <sup>3</sup>
4. Title VI of the Civil Rights Act, 42 U.S.C. §2000d *et seq.*
5. Equal Employment Opportunities Act (Title VII of the Civil Rights Act), 42 U.S.C. §2000e *et seq.*
6. Sexual harassment (Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, and Title IX of the Education Amendments of 1972) <sup>4</sup>

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<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.

A grievance procedure is required by many civil rights acts and implementing regulations, including those listed. 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 uniform grievance procedures.

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.

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. 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>2</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. 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 Equal Employment Opportunity Commission's (EEOC) regulations, 29 C.F.R. Part 1630, ~~can be found~~ 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>3</sup> See f/n 2's discussion of website accessibility above. To avoid allegations that a district violated Section 504 of the Rehabilitation Act of 1973 and Title II of the ADA of 1990, many attorneys suggest that school districts' websites meet the WCAG 2.0 guidelines. But see the discussion in f/n 2 of policy 8:70, *Accommodating Individuals with Disabilities*.

## Operational Services

### Identity Protection 1

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

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

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

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~~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 f/n19 to sample policy 2:250, *Access to District Public Records*, detailing the preservation requirements of the Local Records Act (50 ILCS 205/3-7), 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 f/n 4, below for more information about options to include PIPA requirements in this sample policy.~~

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

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.~~5~~ The stated reason for collection of the social security number must be relevant to the documented purpose.~~6~~
- ~~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~~

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~~3~~ 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)~~.

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

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

- ~~1. Written or electronic notification to an individual 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.~~

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

~~6~~ 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.

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~~<sup>7</sup> 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 f/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.~~

~~<sup>8</sup> 815 ILCS 530/12, (e), amended by P.A. 99-503. Notification sooner is preferred, if it can be accomplished.~~

~~<sup>9</sup> 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*.~~

~~<sup>10</sup> Optional. See f/n 6 above.~~

~~<sup>11</sup> 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.~~

## Operational Services

### Transportation 1

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

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<sup>1</sup> State law controls this policy's content. ~~(105 ILCS 5/29-1 et seq. and 23 Ill.Admin.Code Part 120).~~ **Important: The board of a district that does not provide transportation must amend this policy.** F/n 2 discusses when districts must provide free transportation. Please contact an IASB Policy Consultant for *gratis* help customizing this policy. You may also need to consult the board attorney.

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

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

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

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

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

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

<sup>3</sup> 105 ILCS 5/29-3 and 23 Ill.Admin.Code §1.510. The determination as to what constitutes a serious safety hazard is made by the board, in accordance with guidelines issued by the Ill. Dept. of Transportation, in consultation with the State Superintendent of Education.

<sup>4</sup> Required by 105 ILCS 5/29-3. Another statute provides a process for *qualifying students* to seek reimbursement from ISBE for *qualified transportation expenses*. ~~(105 ILCS 5/29-5.2; 23 Ill.Admin.Code §120.-240).~~ 23 Ill.Admin.Code §120.230 requires, among other things, that each attendance center designate a representative to assist parents/guardians with this process. This process does not need to be in board policy and is not covered herein.

<sup>5</sup> 34 C.F.R. §300.34 and 23 Ill.Admin.Code §226.750.

<sup>6</sup> 105 ILCS 5/29-3.2 and 5/29-4.

## 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>2</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.

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>

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

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

<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 Drill Act (105 ILCS 128/)* refers to *emergency and crisis response plans*.

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

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

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

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

## School Safety Drill Plan 6

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

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

## Annual Review

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

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

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

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

7 The School Safety Drill Act requires each school board or its designee to conduct one annual meeting at which it reviews each building's emergency and crisis response plan, protocols, and procedures and each building's compliance with the school safety drill plan. 105 ILCS 128/25 and 128/30; 29 Ill.Admin.Code Part 1500. If the board uses a designee, it should preferably be someone other than the District Safety Coordinator to assure an unbiased audit. The statute contains detailed requirements. The board or its designee must: (1) complete a one-page report certifying that the review took place, among other things; (2) send a copy of the report to each participating party; and (3) send a copy of the report to the appropriate Regional Superintendent. ISBE's website contains a suggested annual review checklist and a report form to document compliance at: [www.isbe.net/Pages/School-Emergency-and-Crisis-Response-Plan-Guide.aspx](http://www.isbe.net/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 Ill.Admin.Code Part 527. Also see 4:170-AP6, *Plan for Responding to a Medical Emergency at a Physical Fitness Facility with an AED*.

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.<sup>9</sup> 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.<sup>10</sup> 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 <sup>11</sup>

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 <sup>12</sup>

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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<sup>9</sup> 77 Ill. Admin. Code §527.600(d), (f).

<sup>10</sup> 210 ILCS 74/15(c); 77 Ill. Admin. Code §527.700.

<sup>11</sup> 105 ILCS 5/10-20.567, added by P.A. 99-470 and amended by P.A. 99-642. *Carbon monoxide detector* and *detector* mean a device having a sensor that responds to carbon monoxide gas and that is connected to an alarm control unit and approved in accordance with rules adopted by the Ill. State Fire Marshal. *Approved carbon monoxide alarm* or *alarm* means a carbon monoxide alarm that complies with all the requirements of the rules and regulations of the Ill. State Fire Marshal, bears the label of a nationally recognized testing laboratory, and complies with the most recent standards of the Underwriters Laboratories or the Canadian Standard Association. (430 ILCS 135/5).

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

<sup>12</sup> Include this section **only if** the school district owns and controls a movable soccer goal ~~(Movable Soccer Goal Safety Act, a/k/a Zach's Law, 430 ILCS 145/).~~ The Act requires: (1) organizations that own and control a movable soccer goal to create a soccer goal safety and education policy that outlines how the organization will specifically address the safety issues associated with movable soccer goals; and (2) the ~~Ill. Dept. of Public Health~~ IDPH to provide technical assistance materials; ~~which are available at: See~~ [dph.illinois.gov/topics-services/prevention-wellness/injury-violence-prevention/soccer-goal-safety](http://dph.illinois.gov/topics-services/prevention-wellness/injury-violence-prevention/soccer-goal-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 guidance published by the IDPH. 15 The Superintendent or designee shall notify parent(s)/guardian(s) about the sampling results from their children's respective school buildings. 16

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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.

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

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

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

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

**14** 225 ILCS 320/35.5, added by P.A. 99-922 and amended by P.A. 100-103. Requires that each source of potable water in school buildings constructed on or before 1-1-00, which may be occupied by more than 10 children in grades pre-K through 5, be tested for lead. Testing for buildings constructed prior to 1-1-87 must be conducted by 12-31-17. 225 ILCS 320/35.5(c)(4). Testing for buildings constructed between 1-2-87 and 1-1-00 must be conducted by 12-31-18. Id. By 6-30-19, the IDPH will determine whether it is necessary and appropriate to require testing for buildings constructed after 1-1-00. 225 ILCS 320/35.5(d).

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

**15** 225 ILCS 320/35.5(e) requires the IDPH to post on its website guidance on mitigation actions for lead in drinking water, and ongoing water management practices, in schools. On 5-9-17, the IDPH posted *Mitigation Strategies for Lead Found in School Drinking Water* at: [www.dph.illinois.gov/sites/default/files/publications/school-lead-mitigation-strategies-050917.pdf](http://www.dph.illinois.gov/sites/default/files/publications/school-lead-mitigation-strategies-050917.pdf). **Note:** Page 2 of *Mitigation Strategies* states "IDPH is requiring the mitigation strategies and requirements contained in this guidance document to be followed for all plumbing fixtures identified with any level of lead," however the statute does not authorize the IDPH to impose such additional requirements.

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

## General Personnel

### Workplace Harassment Prohibited 1

The School District expects the workplace environment to be productive, respectful, and free of unlawful discrimination, including harassment. District employees shall not engage in harassment or abusive conduct on the basis of an individual's race, 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*.

### Sexual Harassment Prohibited 3

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

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

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

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

~~An employer is liable under Title VII of the Civil Rights Act of 1964 (Title VII) for an employee's harassment of a co-worker if the employer was negligent with respect to the offensive behavior by, for example, failing to take remedial action when it knew or should have known about the harassment. 42 U.S.C. §2000e et seq. However, when the perpetrator is the victim's supervisor, the employer will be vicariously liable for the supervisor's actions. Lack of knowledge of a supervisor's misconduct is no defense. *Burlington Industries v. Ellerth*, 418 S.Ct. 2257 524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 418 S.Ct. 2275 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*, No. 11-556 (U.S. Sup. Ct. 6/24/13) 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*, 908 N.E.2d 392 33 Ill.2d 125 (Ill., 2009).~~

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

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

~~3 The ~~Ill. Human Rights Act~~ 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.~~

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 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>

A violation of this policy may result in discipline, up to and including discharge. Any person making a knowingly false accusation regarding harassment will likewise be subject to disciplinary action, up to and including discharge. 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*). <sup>6</sup>

Aggrieved persons, who 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 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 <sup>7</sup>

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

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<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. Sundown Offshore Services, 118 S.Ct. 998 535 U.S. 75 (1998).

<sup>5</sup> 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 ~~III~~ Human Rights Act (HRA) if it fails to take corrective action to stop severe or pervasive harassment, §775 ILCS 5/5-102 and 5/5-102.2, amended by P.A. 96-814.

<sup>6</sup> Crawford v. Metro. Gov't of Nashville & Davidson County, 129 S.Ct. 846 555 U.S. 271 (2009) (holding the anti-retaliation provision in ~~Title VII~~ 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).

<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.

## 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-<sup>2</sup>, 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

**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 controls this policy's content. The Abused and Neglected Child Reporting Act (ANCRA, 325 ILCS 5/) 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: 1-866-324-5553 (TTY/Nextalk); or 711 (Illinois Relay)). (325 ILCS 5/4.4a 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 f/n 129 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 purpose 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 f/ns 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 \(1-800-7843-5678\)](tel:1-800-THE-LOST), or online at [report.cybertip.org/](http://report.cybertip.org/) or [www.cybertipline.com](http://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.dupageroe.org/wp-content/uploads/Mandated\\_Reporting.pdf](http://www.dupageroe.org/wp-content/uploads/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 ~~State 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. 98-393~~, 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. **8**

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~~ five years after that date. **9**

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. **10** **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. **12**

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**8** While it is unclear whether this is a duty or power, 105 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 "[t]o 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."

**9** ~~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~~ 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-~~20~~14.

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 f/n ~~87~~ above.

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

**11** 105 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 optional 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."

**12** ~~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~~ DHS' 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 1305/4).~~

## General Personnel

### Staff Development Program 1

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

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

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

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1 State law requires the subject matter in paragraph 2 to be covered by policy. State or federal law controls this policy's content. A school board may set and enforce professional growth requirements. ~~(105 ILCS 5/24-5)~~. Failure to meet professional growth requirements is considered remediable. Morris v. Ill. State Bd. of Educ.SBE, 555 N.E.2d 725198 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.

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

3 105 ILCS 5/10-22.39(f) requires boards to conduct this in-service. While the language of this paragraph is not required to be in board policy, including it provides a way for boards to monitor that it is being done. Including this language provides an opportunity for each board and the superintendent to examine all current policies, collective bargaining agreements, and administrative procedures on this subject. Each board may then want to have a conversation with the superintendent and direct him or her to develop a curriculum for the in-service that instructs all district staff to maintain boundaries and act appropriately, professionally, and ethically with students. See also 5:120, *Employee Ethics; Conduct; and Conflict of Interest*, and f/n 811 in 4:110, *Transportation*. These expectations will be most effective when they reflect local conditions and circumstances. Employee conduct issues may be subjects of mandatory collective bargaining, therefore consulting the board attorney should be a part of this process. A district would commit an unfair labor practice by implementing new employee conduct rules without first offering to negotiate them with the applicable exclusive bargaining representative.

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

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

1. At least, once every two 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 8-18-14 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.
- ~~13.~~ For school personnel who work with hazardous or toxic materials on a regular basis, training on the safe handling and use of such materials.

Alternative to paragraph number 2:

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

Citations for this option follow:

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



## Professional Personnel

### Terms and Conditions of Employment and Dismissal 1

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

#### School Year and Day

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

#### School Day

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

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

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

Evaluation, tenure, and dismissals ~~will be changed~~ significantly from ~~2013~~now until to 2016 as P.A.s 96-861, 97-8, and 98-513 ~~(eff. 1-1-14)~~ are implemented. These public acts are ~~frequently~~ referred to as *Education Reform* or *Education Reform Acts*.

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

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

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

<sup>5</sup> The length of the school day is left to the board's discretion absent an individual or collective bargaining contract. With several exceptions, the student attendance day must include at least ~~five~~ five class hours of direct teacher supervision. (105 ILCS 5/18-8.05).

<sup>6</sup> 105 ILCS 5/24-9.

Salary

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

Assignments and Transfers

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

School Social Worker Services Outside of District Employment

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

Dismissal

The District will follow State law when dismissing a teacher. <sup>12</sup>

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~~<sup>7</sup> 740 ILCS 137/; 820 ILCS 260/1. Ill. law requires more of employers than federal law. Consult the board attorney to ensure the district is properly accommodating nursing mothers. See 5:10-AP, *Workplace Accommodations for Nursing Mothers*.~~

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

~~<sup>9</sup> 105 ILCS 5/24-21.  
<sup>10</sup> Districts are required to have a policy on the distribution of the listed assignments ~~(23 Ill.Admin.Code §1.420(d)~~. Absent an individual or collective bargaining agreement, the board has unilateral discretion to assign or retain a teacher to or in an extracurricular duty. *Betebenner v. Bd. of Educ.*, ~~336 Ill.App. 448 (4th Dist. 1949)~~~~84 N.E.2d 569 (Ill.App.4, 1949)~~; *Dist. 300 Educ. Assoc. v. Bd. of Educ.*, ~~31 Ill.App.3d 550 (2nd Dist. 1975)~~~~334 N.E.2d 165 (Ill.App.2, 1975)~~; *Lewis v. Bd. of Educ.*, ~~181 Ill.App. 3d 689 (5th Dist. 1989)~~~~537 N.E.2d 435 (Ill.App.5, 1989)~~.~~

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

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

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

## Professional Personnel

### Substitute Teachers 1

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

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

1. A substitute teacher holding a substitute license may teach for any one licensed teacher under contract with the District only for a period not to exceed 90 paid school days in any one school term.
2. A teacher holding a Professional Educator License<sup>4</sup> or Educator License with Stipulations<sup>5</sup> may teach for any one licensed teacher under contract with the District only for a period not to exceed 120 paid school days.

The Illinois Teachers' Retirement System (TRS) limits a substitute teacher who is a TRS annuitant to substitute teaching for a period not to exceed 100 paid days or 500 paid hours in any school year, unless the subject area is one where the Regional Superintendent has certified that a personnel shortage exists. <sup>6</sup>

The School Board establishes a daily rate of pay for substitute teachers. Substitute teachers receive only monetary compensation for time worked and no other benefits. <sup>7</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 controls this policy's content. Policy 5:30, *Hiring Process and Criteria*, contains the requirements for pre-employment investigations, e.g., a finger-print based criminal history records check. See also 5:30-AP2, *Administrative Procedure - Investigations*. Each board must require new employees to furnish evidence of a physical examination and freedom from communicable disease. (105 ILCS 5/24-5, ~~amended by P.A. 98-716~~). The physical examination must be performed within 90 days before the time it is presented to the board, and the employee bears the cost of the physical examination.

<sup>2</sup> 23 Ill.Admin.Code §1.790(a)(2), added by 41 Ill.Reg. 6924, requires that any individual who serves as a substitute teacher for driver's education be endorsed for driver's education pursuant to 23 Ill.Admin.Code §25.100(k).

<sup>3</sup> Substitute teaching licenses are governed by 105 ILCS 5/21B-20(3) and 23 Ill.Admin.Code §§ 1.790, 25.520.

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

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

<sup>6</sup> 40 ILCS 5/16-118 and ~~40 ILCS 5/16-150.1~~. Use this alternative for districts in suburban Cook County: replace "Regional Superintendent" with "appropriate Intermediate Service Center." ~~P.A. 96-893 abolished the Regional Office of Education for Suburban Cook County and transferred its duties and powers to Intermediate Service Centers.~~

<sup>7</sup> If a board provides substitute teachers other benefits, it may consider listing them here.

## Emergency Situations 8

A substitute teacher may teach when no licensed teacher is under contract with the Board if the District has an emergency situation as defined in State law. During an emergency situation, a substitute teacher is limited to 30 calendar days of employment per each vacant position. The Superintendent shall notify the appropriate Regional Office of Education within ~~5~~five business days after the employment of a substitute teacher in an emergency situation.

LEGAL REF.: 105 ILCS 5/21B-20~~(2) and 5/21B-20(3) and 24-5.~~  
23 Ill.Admin.Code §1.790 (Substitute Teacher) and §25.520 (Substitute Teaching License).

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

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~~8~~ 105 ILCS 5/21-~~9B-20(3)~~. An *emergency situation* is defined as one where an unforeseen vacancy has occurred and (i) a teacher is unable to fulfill his or her contractual duties, or (ii) the district's teacher capacity needs exceed previous indications and the district is actively engaged in advertising to hire a fully licensed teacher for the vacant position.

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

## 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 hours rules, employees who are exempt from overtime requirements become eligible for overtime if they are subject to disciplinary suspensions without pay. Auer v. Robbins, 519 U.S. 452 447 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 f/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 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+05 S.Ct. 1487 (1985); Barszcz v. Community College District No. 504, 400 F.Supp. 675 (N.D. Ill., 1975); Massie v. East St. Louis Sch. Dist. No. 189, 203 Ill.App.3d 965 (5th Dist. 561 N.E.2d 246 (Ill.App.5, 1990); Spinelli v. Immanuel Lutheran Evangelical Congregation, Inc., 118 Ill.2d 389515 N.E.2d 4222 (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 5/7.4(c-5), amended by P.A. 100-176, eff. 1-1-18. Consult the board attorney about suspending an employee without pay pursuant to a DCFS 325 ILCS 5/7.4(c-5)-recommendation. This language balances the interests of student safety and employee due process when the district receives a recommendation to a remove an employee who is the subject of a DCFS investigation from employment.

Note: Liability may exist when a district receives a 325 ILCS 5/7.4(c-5)-recommendation and does not remove the employee as a result. Consider In re Estate of Stewart v. Oswego Comm. Unit. Sch. Dist. No. 308, 406 Ill.Dec. 345 (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 tort 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. 189, 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).

## Educational Support Personnel

### Employment Termination and Suspensions 1

#### Resignation and Retirement

An employee is requested to provide ~~2~~two weeks' notice of a resignation.<sup>2</sup> A resignation notice cannot be revoked once given. An employee planning to retire should notify his or her supervisor at least ~~2~~two months before the retirement date.

#### Non-RIF Dismissal 3

The District may terminate an at-will employee at any time for any or no reason, but not for a reason prohibited by State or federal law.

Employees who are employed annually or have a contract, or who otherwise have a legitimate expectation of continued employment, may be dismissed: (1) at the end of the school year or at the

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<sup>1</sup> State or federal law controls this policy's content. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. School officials should consult with their attorneys before adopting this policy or taking any action under it.

If a local collective bargaining agreement contains provisions that exceed these requirements, 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. The local collective bargaining agreement may contain provisions that exceed these requirements. When a policy's subject matter is superseded by a bargaining agreement, the board policy may state, "Please refer to the current [insert name of educational support CBA]."

Administrative procedures implementing this policy should include guidelines for exit interviews. These guidelines should include a list of items to discuss with the employee, e.g., the reasons for the termination; how the district could improve its policies, procedures, and working conditions; how to reduce employee turnover; and information about the employee's benefits, including continued health insurance coverage.

#### <sup>2</sup> Optional provision:

In most cases, resigning employees are permitted to work until their effective resignation date.

<sup>3</sup> If employed at-will, the employee may be dismissed at any time for a non-discriminatory reason unless the dismissal is for a reduction in force. See ~~policy-5:270, Employment At-Will, Compensation, and Assignment~~. **Important:** whether a specific employee is actually employed at-will depends on the specific facts. Griggsville-Perry Community Unit Sch. ~~ool~~ Dist. v. Ill. Educ. Labor Relations Bd., 368 Ill. Dec. 494984 N.E.2d 440 (Ill. 2013) (upheld an arbitrator's finding that the requirement to provide a pre-discharge written notice was drawn from the essence of the agreement); Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532405 S.Ct. 1487 (1985). See also Baird v. Warren Comm. Unit Sch. ~~ool~~ Dist., 389 F.3d 685 (7th Cir., 2004)(because board members denied a dismissed superintendent procedural due process rights, they were denied qualified immunity).

It is safest to presume that all non-licensed employees are employed for the school year because districts routinely assure next-year employment so that the employee will not qualify for summer unemployment. In addition, annual employment may be created through a collective bargaining agreement, past practice, an employees' handbook, personnel policy manual, an oral promise, or any type of specific annual allocation per year, e.g., vacation or sick day allotments. Thus, the sample policy addresses those employees "with an annual or longer contract or who otherwise have a legitimate expectation of continued employment." A dismissal at the end of the school year or end of a contract generally requires only minimal due process. A mid-year or mid-contract dismissal will require significantly greater due process.

Even if an employee is at-will, a district should consider giving a dismissal reason. The failure to give a reason may provoke an employee into challenging the dismissal, e.g., by alleging illegal discrimination or retaliation for exercising a protected right or whistleblowing.

Consult the board attorney to determine: (1) which employees are at-will, have annual employment, or have a different expectation for their length of employment, and (2) the level of due process to provide specific employees in the event of a dismissal.



end of their respective contract after being provided appropriate notice and after compliance with any applicable contractual provisions, or (2) mid-year or mid-contract provided appropriate due process procedures are provided.

The Superintendent is responsible for making dismissal recommendations to the School Board consistent with the Board's goal of having a highly qualified, high performing staff.

#### Reduction in Force and Recall 4

The Board may, as necessary or prudent, decide to decrease the number of educational support personnel or to discontinue some particular type of educational support service and, as a result of that action, dismiss or reduce the hours of one or more educational support employees. When making decisions concerning reduction in force and recall, the Board will follow Sections 10-22.34c (outsourcing non-instructional services) and 10-23.5 (procedures) of the School Code, to the extent they are applicable and not superseded by legislation or an applicable collective bargaining agreement.

#### Final Paycheck

A terminating employee's final paycheck will be adjusted for any unused, earned vacation credit.<sup>5</sup> Employees are paid for all earned vacation. Terminating employees will receive their final pay on the next regular payday following the date of termination, except that an employee dismissed due to a reduction in force shall receive his or her final paycheck on or before the next regular pay date following the last day of employment. <sup>6</sup>

#### Suspension

Except as provided below, the Superintendent is authorized to suspend an employee without pay as a disciplinary measure, during an investigation into allegations of misconduct or pending a dismissal hearing whenever, in the Superintendent's judgment, the employee's presence is detrimental to the District. A disciplinary suspension shall be with pay: (1) when the employee is exempt from the overtime provisions,<sup>7</sup> or (2) until an employee with an employment contract for a definite term is provided a notice and hearing according to the suspension policy for professional employees.<sup>8</sup> Upon

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<sup>4</sup> 105 ILCS 5/10-23.5 grants educational support personnel significant protection during a RIF. Unless otherwise defined by a collective bargaining agreement, the board can define the position categories for a seniority list. Cook v. Eldorado Community Unit School-Sch. District, 354 Ill.App. 3d 256820 N.E.2d 484 (5th Dist.Ill.App.5, 2004). While the statute gives boards the discretion to define *categories of positions*, boards may not define *categories* differently for lay-off/recall purposes than for other purposes.

105 ILCS 5/10-22.34c governs layoffs as a result of a third party non-instructional services contract. See Community Unit School-Sch. Dist. No. 5 v. Ill. Educational-Educ. Labor Relations Board, 382 Ill.Dec. 12042 N.E.3d 120 (4th Dist. Ill.App.4,2014)(no unfair labor practice occurred when a school employer outsourced its transportation services and dismissed bus drivers as a result of bona fide and legitimate reasons, not anti-union animus, and the district had bargained in good faith with the union.

<sup>5</sup> A district may also adjust an employee's final paycheck for advanced vacation leave, *provided* that the employee agreed to deduct a specified amount of pay equaling the advanced vacation. (56 Ill.Admin.Code §300.760). If employees are required to execute such an agreement before taking unearned vacation leave, add the following phrase to this sentence: "or, if the employee agreed in writing, vacation time taken that was not earned."

<sup>6</sup> These final paycheck requirements are in 105 ILCS 5/10-23.5.

<sup>7</sup> Employees who are exempt from overtime requirements become eligible for overtime if they are subject to disciplinary suspensions without pay. Auer v. Robbins, 519 U.S. 452417 S.Ct. 905 (1997). 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.

<sup>8</sup> A suspension of an employee having a protected property right in continued employment requires a notice and hearing. See f/n 3 for additional discussion.

receipt of a recommendation from the Ill. Dept. Children and Family Services (DCFS) 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, in consultation with the Board Attorney, will determine whether to: <sup>9</sup>

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

Any criminal conviction resulting from the investigation or allegations shall require the employee to repay to the District all compensation and the value of all benefits received by the employee during the suspension. The Superintendent will notify the employee of this requirement when the employee is suspended. <sup>10</sup>

LEGAL REF.: 5 ILCS 430 et seq.  
105 ILCS 5/10-22.34c and 5/10-23.5.  
325 ILCS 5/7.4(c-10).  
820 ILCS 105/4a.

CROSS REF.: 5:240 (Professional Personnel - Suspension), 5:270 (Educational Support Personnel - Employment At-Will, Compensation, and Assignment)

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<sup>9</sup> This sentence is optional. 325 ILCS 5/7.4(c-5), amended by P.A. 100-176, eff. 1-1-18. Consult the board attorney about suspending an employee without pay pursuant to a DCFS 325 ILCS 5/7.4(c-5)-recommendation. This sample 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 5/7.4(c-5)-recommendation and does not remove the employee as a result. Consider In re Estate of Stewart v. Oswego Comm. Unit. Sch. Dist. No. 308, 406 Ill.Dec. 345 (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 tort immunity to district); In re Estate of Stewart, 412 Ill.Dec. 914 (Ill. 2017) (school district's appeal denied).

<sup>10</sup> The repayment requirements in the first sentence of this paragraph are in 5 ILCS 430/5-60(b). The second sentence is optional.

## Instruction

### School Wellness 1

Student wellness, including good nutrition and physical activity, shall be promoted in the District's educational program, school-based activities, and meal programs.<sup>2</sup> This policy shall be interpreted consistently with Section 204 of the Child Nutrition and WIC Reauthorization Act of 2004 and the Healthy Hunger-Free Kids Act of 2010 (HHFKA).<sup>3</sup>

The Superintendent ~~or designee~~ will ensure: 4

**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 to be covered in policy and controls its content. The federal Child Nutrition and WIC Reauthorization Act of 2004 (Child Nutrition Act) requires school districts participating in a program authorized by the National School Lunch Act (NSLA, 42 U.S.C. §1751 et seq.) or the Child Nutrition Act to have a school wellness policy. (Pub. L. 108-265, Sec. 204). State law required ISBE to "establish a State goal that all school districts have a wellness policy." (105 ILCS 5/2-3.139). ISBE complied in October 2007 by "instruct[ing] all public school districts to establish a School Wellness Policy." The federal and State laws list mandatory topics for the policy. The second sentence of this policy should be deleted if the district does not participate in the ~~National School Lunch Act~~NSLA or the Child Nutrition Act.

See ISBE's numerous resources at: [www.isbe.net/Pages/Nutrition-and-Wellness.aspx](http://www.isbe.net/Pages/Nutrition-and-Wellness.aspx). Action for Healthy Kids is a national organization dedicated to overcoming the "epidemic of overweight, undernourished and sedentary youth by focusing on changes in schools;" see its resources at: [www.actionforhealthykids.org/index.php](http://www.actionforhealthykids.org/index.php).

This sample policy seeks to be both legally compliant and consistent with good governance principles. Both federal and State laws allow each school district to determine how the required topics are addressed. Good governance principles suggest that the board should establish goals with community and stakeholder input. The administration should determine how to achieve the goals. The board should monitor this policy by requesting and reviewing periodic implementation data.

The Ill. Dept. of Agriculture and ISBE are directed to create the Farm Fresh Schools Program, (105 ILCS 124/, Farm Fresh Schools Program Act; 30 ILCS 105/5.728, Farm Fresh Schools Program Fund). They are also directed to administer a grant program to further the Program's intent of "reduc[ing] obesity and improve[ing] nutrition and public health, as well as strengthen[ing] local agricultural economies by increasing access to and promoting the consumption of locally grown fruits and vegetables in schools and increasing physical activities and programs that promote pupil wellness." 105 ILCS 124/10.

<sup>2</sup> 7 C.F.R. §210.310(a) and (c)(1). The law does not require school-based activities to be listed in policy – only that boards implement them. Federal law requires consideration of evidence-based strategies and techniques when implementing school-based activities. A board that chooses to list these activities must update them as they change by readopting the policy.

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

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

1. The U.S. Dept. of Agriculture (USDA) at: <https://healthymeals.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/other-school-based-activities>; and

2. The Alliance for a Healthier Generation (AHG) at: <https://www.healthiergeneration.org/>.

<sup>3</sup> Healthy Hunger-Free Kids Act of 2010 (HHFKA); 42 U.S.C. §1758b (Pub.L. 111-296); 7 C.F.R. §§210.10 and 210.310(a).

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

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

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

#### Goals for Nutrition Education and Nutrition Promotion ~~6~~

The goals for addressing nutrition education and nutrition promotion include the following:

- Schools will support and promote sound nutrition for students.
- Schools will foster the positive relationship between sound nutrition, physical activity, and the capacity of students to develop and learn.
- Nutrition education will be part of the District's comprehensive health education curriculum. See ~~School~~-Board policy 6:60, *Curriculum Content*. ~~7~~

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

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

The intent of the rule is that schools "notify households on an annual basis of the availability of the local school wellness policy information and provide information that would enable *interested households* to obtain additional details." (Fed. Reg. Vol. 81, No. 146 at 50160). However, the rule states, "[i]nform the *public* about the content and implementation of the local school wellness policy, and make the policy and any updates to the policy available to the public on an annual basis."

To achieve the intent of this requirement, the regulations suggest several methods for districts, which include a common method many districts likely already use: post the policy on the websites for the *public*, and use the student handbook to distribute important information to *interested households*.

~~Members of the Ill. Principals Assoc. may subscribe to the IPA's Model Student Handbook Service. While this service is not a handbook per se, it provides principals with quick, user friendly access to model student handbook provisions that are attorney drafted and fully aligned with IASB's policy services. See [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).~~

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

~~6 Goals for nutrition education and nutrition promotion This is are required topics, but the local board may determine what goals are appropriate. (Pub. L. 108-265, Sec. 204(a)(1) and Pub. L. 111-296; 105 ILCS 5/2-3.139(a)(2); and 7 C.F.R. §210.310(c)(1). Replace this policy's text with a board's own locally-developed nutritional education and promotion goals.~~

~~Nutrition promotion, is now required by Pub. L. 111-296, but the concept is not well-described or defined. The Food Nutrition Service (FNS) describes nutrition promotion more clearly in its technical assistance materials and the proposed 7 C.F.R. Part 210 rules (Fed. Reg. Vol. 79, No. 38 at 10695), dated Feb. 26, 2014, which state, "... evidence based techniques and scientifically-based nutrition messages targeted to a specific audience to inspire and motivate them to take action and use these techniques and messages to create environments and food service venues (classroom, cafeteria, a la carte, vending machines, school stores, snack bars, fundraisers, home, etc.) that encourage healthy nutrition choices, as well as enhance and encourage participation in school meal programs."~~

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

~~Technical assistance for:~~

- ~~1. Nutritional education at: [healthymeals.fns.usda.gov/nutrition-education-9](http://healthymeals.fns.usda.gov/nutrition-education-9).~~
- ~~2. Nutritional promotion at: [healthymeals.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/nutrition-promotion](http://healthymeals.fns.usda.gov/local-wellness-policy-resources/wellness-policy-elements/nutrition-promotion).~~
- ~~3. Goals development for and implementation of nutrition education and promotion are available from AHG at: [www.healthiergeneration.org/](http://www.healthiergeneration.org/).~~

~~7 105 ILCS 110/3 and 23 Ill.Admin.Code §1.420(n). ISBE's rules for Comprehensive Health Education found at 23 Ill.Admin.Code Part 253 were repealed, eff. 10-3-05.~~

## Goals for Physical Activity <sup>8</sup>

The goals for addressing physical activity include the following:

- Schools will support and promote an active lifestyle for students.
- Physical education will be taught in all grades and shall include a developmentally planned and sequential curriculum that fosters the development of movement skills, enhances health-related fitness, increases students' knowledge, offers direct opportunities to learn how to work cooperatively in a group setting, and encourages healthy habits and attitudes for a healthy lifestyle. See Board policy 6:60, *Curriculum Content* and Board policy 7:260, *Exemption from Physical Education*. <sup>9</sup>
- During the school day, all students will be required to engage in a daily physical education course, unless otherwise exempted. See Board policy 6:60, *Curriculum Content* and Board policy 7:260, *Exemption from Physical Education*. <sup>10</sup>
- The curriculum will be consistent with and incorporate relevant *Illinois Learning Standards for Physical Development and Health* as established by the Illinois State Board of Education (ISBE). <sup>11</sup>

## Nutrition Guidelines for Foods Available During the School Day; ~~Marketing Prohibited~~ <sup>12</sup>

Students will be offered and schools will promote nutritious food and beverage choices during the school day that are consistent with ~~the Board policy 4:120, Food Services (requiring compliance with the nutrition standards specified in the U.S. Dept. of Agriculture's (USDA) Smart Snacks rules) current Dietary Guidelines for Americans published jointly by the U.S. Departments of Health and Human Services and Agriculture (USDA),~~ <sup>13</sup>.

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

<sup>8</sup> This is a required topic, but the local board may determine what goals are appropriate. (Pub. L. 108-265, Sec. 204(a)(1); 105 ILCS 5/2-3.139(a)(2); and 7 C.F.R. §210.319(a) and (c)(1)).

<sup>9</sup> 105 ILCS 5/27-5 and 27-6; 23 Ill.Admin.Code §1.425 (added at 40 Ill. Reg. 2990). See also f/n 19 in policy 6:60, Curriculum Content. For standards-based lesson plans and curricula for pre-kindergarten through grade eight, classroom-based lesson plans, recipes, guidance to improve the quality of school meals, and other materials for nutrition education and promotion, including songs, games, posters, videos, event-planning booklets, wellness communication toolkits, school garden activities, and a graphics library, see the resources developed by the FNS' Team Nutrition at: [www.fns.usda.gov/tn/resource-library](http://www.fns.usda.gov/tn/resource-library).

<sup>10</sup> Id.

<sup>11</sup> Schools must "set student learning objectives which meet or exceed goals established by the State," (105 ILCS 5/2-3.63). The *Learning Standards* can be found on ISBE's website, at: [www.isbe.net/Pages/Learning-Standards.aspx](http://www.isbe.net/Pages/Learning-Standards.aspx). See *State Goal 20: Achieve and maintain a health-enhancing level of physical fitness based upon continual self-assessment* at: [www.isbe.net/Pages/PE-Health-Learning-Standards.aspx](http://www.isbe.net/Pages/PE-Health-Learning-Standards.aspx).

105 ILCS 5/27-6.5 describes physical fitness assessments required, beginning with the 2016-17 school year and every school year thereafter, for grades 3-12 in an effort to meet State Goal 20 of the *Illinois Learning Standards for Physical Development and Health* (at: [www.isbe.net/Pages/PE-Health-Learning-Standards.aspx](http://www.isbe.net/Pages/PE-Health-Learning-Standards.aspx)). See also 23 Ill.Admin.Code §1.425 (g), (h); ISBE's *IL Fitness Assessments and Data Reporting Requirements Questions and Answers* (Rev. ~~4/7/16~~ 22-17) at: [www.isbe.net/Documents/fitness-asmt-faq.pdf](http://www.isbe.net/Documents/fitness-asmt-faq.pdf).

<sup>12</sup> The policy must include the nutrition guidelines selected by the board for "all foods available during the school day with the objective of promoting student health and reducing childhood obesity," (Pub. L. 108-265, Sec. 204(a)(2); 105 ILCS 5/2-3.139(a)(1); and 7 C.F.R. §210.10 and 210.319(a), (c)(2), and (c)(3)(i)-(iv). 42 U.S.C. 1758b(b)(2)(A) requires that each local school wellness policy include nutrition guidelines for all foods and beverages available for sale on the school campus during the school day to ensure they are consistent with the statutory and regulatory provisions governing school meals (7 C.F.R. §§210.10, 220.8 and 220.10) and competitive foods (7 C.F.R. §210.11) as applicable.

Prior to July 2016 when 7 C.F.R. § 210.10 and 7 C.F.R § 210.31(c) (respectively) became effective, the current *Dietary Guidelines for Americans* published jointly by the U.S. ~~Departments~~ Departments of Health and Human Services and Agriculture (USDA) were used as nutrition guidelines.

<sup>13</sup> 7 C.F.R. §§210.10 (meal requirements for lunches and after-school snacks); 210.11(c) (general nutrition standards for competitive food, i.e., *Smart Snacks*); and 210.31(a) and (c) (encompassing all other nutrition requirements, including foods not sold to students during the school day (classroom parties)).

In addition, in order to promote student health and reduce childhood obesity,<sup>14</sup> the Superintendent or designee shall:

1. ~~R~~ restrict the sale of *competitive foods*, as defined by the USDA, in the food service areas during meal periods; ~~and~~
2. ~~C~~omply with all ISBE rules; ~~and~~
3. ~~Prohibit marketing during the school day of foods and beverages that do not meet the standards listed in Board policy 4:120, Food Services, i.e., in-school marketing of food and beverage items must meet competitive foods standards.~~<sup>15</sup>

~~Competitive foods standards do not apply to foods and beverages available, but not sold in school during the school day; e.g., brown bag lunches, foods for classroom parties, school celebrations, and reward incentives.~~<sup>16</sup>

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<sup>14</sup> 7 C.F.R. §210.31(c)(3)(iv).

<sup>15</sup> 7 C.F.R. §§210.11(a)(2) and 210.31(c)(3)(iii); 23 Ill. Admin. Code §305.5. For a definition of *competitive foods*, see 4:120-AP, ~~Administrative Procedure—Food Services; Competitive Foods; Exemptions.~~

<sup>16</sup> 7 C.F.R. §210.31(c)(2). This sample policy does not apply competitive food standards to foods not sold in schools; i.e., foods that students bring into the school from home, etc.

~~The final [federal] rule does not require that local school wellness policy standards for foods provided in schools during the school day but not available for sale conform to the school meal requirements or the competitive foods standards. In fact, the preamble to the final rule reiterates this saying, “[a]gain, it should be noted that with regard to foods provided, but not sold, in schools, local jurisdictions have the discretion to adopt standards that conform to [the competitive food standards] or to adopt more or less stringent standards.” Similarly, the preamble to the final rule clearly states the rule does not require school boards to address standards for food brought from home for individual consumption. See Federal Register Vol. 81, No. 146 at 50158 at: [www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf](http://www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf). Emphasis added.~~

~~This sample policy adopts less stringent standards for foods not sold in schools. For boards that wish to adopt standards that conform to the competitive food standards or apply even more stringent standards to foods available, but not sold during the school day, delete the last sentence of this subhead: *Competitive foods standards do not apply to foods and beverages available, but not sold in school during the school day; e.g., foods for classroom parties, school celebrations, and reward incentives.* and choose one of the following sentences to replace it:~~

~~**Option 1:** The District applies *competitive foods* standards listed in Board policy 4:120, *Food Services*, to foods available, but not sold, in schools.~~

~~**Option 2:** The District applies more stringent standards than the *competitive foods* standards to foods available, but not sold, in schools. These include [*list the chosen standards to foods available, but not sold, in schools*].~~

~~The AHG encourages school officials to consider prohibiting foods as a reward and using the *Smart Snacks* standards for foods available, but not sold during the school day. However, enforcing such standards against students who are sent to school with snacks from their parents/guardians is difficult and may be considered overreach. Further, such a standard may open the district to challenges. Consult the board attorney about enforcement of standards that meet the *competitive foods* standards – or even more stringent than them standards – upon foods available, but not sold during the school day, i.e., choosing Options 1 or 2, above.~~

### Exempted Fundraising Day (EFD) Requests 17

All food and beverages sold to students on the school campuses of participating schools during the school day must comply with the “general nutrition standards for competitive foods” specified in federal law.

#### ISBE rules prohibit EFDs for grades 8 and below in participating schools.

~~– unless –~~ The Superintendent or designee in a participating school ~~may~~ ~~has~~ granted an ~~exempted fundraising day~~ (EFD) for grades 9 through 12 in participating schools. To request an EFD and learn more about the District’s related procedure(s), contact the Superintendent or designee. The District’s procedures are subject to change. The number of EFDs for grades 9 through 12 in participating schools is set by ISBE rule.

### Guidelines for Reimbursable School Meals 18

Reimbursable school meals served shall meet, at a minimum, the nutrition requirements and regulations for the National School Lunch Program and/or School Breakfast Program. 19

### Monitoring 20

At least every three years, ~~the Superintendent or designee~~ shall ~~annually~~ provide implementation data and/or reports to the Board concerning this policy’s implementation sufficient to allow the Board to monitor and adjust the policy (a triennial report).<sup>21</sup> This triennial report must include without limitation each of the following:

- An assessment of the District’s implementation of the policy
- The extent to which schools in the District are in compliance with the policy
- The extent to which the policy compares to model local school wellness policies

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17 Required by 23 Ill.Admin.Code §305.15(c)(2), ~~and~~ 7 C.F.R. §§~~210.1130(b)(4), (c)(2) and 210.30(c)(2)~~ for participating schools that want to grant EFDs.

For elementary districts, delete these sentences: The Superintendent or designee in a participating school may grant an EFD for grades nine9 through 12 in participating schools. To request an EFD and learn more about the District’s related procedure(s), contact the Superintendent or designee. The District’s procedures are subject to change. The number of EFDs for grades nine9 through 12 in participating schools is set by ISBE rule.

For high school districts, delete this sentence: EFDs are prohibited for grades eight and below in participating schools.

Detailed procedures are subject to change and are too complicated for policy text. This policy seeks to balance the requirement to include procedures in the policy for requesting an EFD by providing information about the initial steps and directing the superintendent or designee to inform the requestor of the current procedure. For a list of the number of available EFDs and a more detailed sample step-by-step procedure to request them, see 4:120-AP, ~~Administrative Procedure –Food Services; Competitive Foods; Exemptions.~~

18 Inclusion in the policy is required for only those districts that participate in a program authorized by the ~~NSLANational School Lunch Act~~ or the Child Nutrition Act (~~Pub. L. 108-265, Sec. 204(a)(3).~~

19 Child Nutrition Act of 1966 (42 U.S.C. §1771 ~~et seq.~~) and ~~NSLANational School Lunch Act~~ (42 U.S.C. §1758).

20 The policy must establish a plan for measuring implementation of the local wellness policy, including designation of one or more persons within the local educational agency at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local wellness policy.; ~~(Pub. L. 108-265, Sec. 204(a)(4); 105 ILCS 5/2-3.139(a)(4); and 7 C.F.R. §210.31(c)(5), and (6), and (e)(1).~~ 105 ILCS 110/3.5(a) requires ISBE to develop and maintain a nutrition and physical activity best practices database. Materials may be found at: [www.isbe.net/Pages/Nutrition-and-Wellness.aspx](http://www.isbe.net/Pages/Nutrition-and-Wellness.aspx).

42 U.S.C. §1758b (~~Pub. L. 111-296~~) requires the public to receive periodic measures with the listed items. The accepted practice is annual reports. There is very little guidance to assist school districts in complying with this requirement, and school districts were expected to be working toward developing a reasonable method to implement this requirement by the end of the 2011-2012 school year. Without guidance, to ensure compliance, superintendents should contact their Regional Office of Education regarding their school districts’ efforts to comply with this requirement. A guide to help school districts conduct an evaluation of local wellness policies is available, along with more guidance at: [www.fns.usda.gov/tn/healthy/wellnesspolicy\\_tools.html](http://www.fns.usda.gov/tn/healthy/wellnesspolicy_tools.html).

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

- A description of the progress made in attaining the goals of the policy
- How the District will make the results of the assessment available to the public
- Where the District will retain records of the assessment **22**

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

### Community Involvement **23**

The Board and Superintendent or designee will actively invite suggestions and comments concerning the development, implementation, periodic reviews, and updates ~~improvement~~ of the school wellness policy from parents, students, representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the community. Community involvement methods shall align their suggestions and comments to policy 2:140, *Communications To and From the Board* and/or the **Community Engagement** subhead in policy 8:10, *Connection with the Community*. **24**

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

**22** Id. and §210.31(f); see also the Local Records Act, 50 ILCS 205/. It governs retention of district records; its definition of *public record* is narrower than the definition in the Freedom of Information Act. These communications must be retained only when they contain: (1) evidence of the district's organization, function, policies, procedures, or activities, or (2) informational data appropriate for preservation. Consult the board attorney for a more thorough analysis and a legal opinion about how to meet both of the federal records retention requirements discussed in f/n 25, below, and the Local Records Act.

**23** A board must establish a *plan in its wellness policy* that for *involving*es parents, students, and representatives of the school food authority, teachers of physical education, school health professionals, the school board, school administrators, and the public in the development of the school wellness policy. (Pub. L. 108-265, Sec. 204(a)(5), amended by 42 U.S.C. §1758b (Pub. L. 111-296); 105 ILCS 5/2-3.139(a)(3); 7 C.F.R. §210.31(c)(5) (requirement to describe involvement plan in policy) and 7 C.F.R. §210.31(d)(1)(requirement to allow certain stakeholders to participate in policy development, etc.).

School districts have discretion in exactly how they implement this requirement, and [e]ach [school district] is best suited to determine the distinctive needs of the community it serves. See Federal Register Vol. 81, No. 146 at 50155 at: [www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf](http://www.gpo.gov/fdsys/pkg/FR-2016-07-29/pdf/2016-17230.pdf).

This requirement's awkward wording notwithstanding, a board may take compliance steps by:

1. Seeking community input or involvement during this policy's adoption and monitoring phases, and inviting suggestions and comments during the public comment portion of board meetings from time to time. This method aligns with 2:140, *Communications To and From the Board* and See 2:240, *Board Policy Development*.
2. Establishing a "local school wellness committee." This method is discussed in the preamble to 7 C.F.R. §210.31(d)(1), which suggests "identifying individuals" to serve on a "local school wellness policy committee." However, the final text of 7 C.F.R. §210.31(d)(1) does not specifically require districts to establish a local school wellness policy committee – only that they "permit [groups listed in the policy above] to participate ... ." See also the citation to the Federal Register, in the second paragraph of this f/n, above, discussing policy implementation discretion.

The default text of this policy follows item #1 above and does not establish a local school wellness committee. For a district that wants to appoint or approve a local school wellness committee, add the following optional sentence as the last sentence of this subhead: "As necessary, the Superintendent or designee will convene a Wellness Committee with at least one representative from each of the listed groups." Also list the Wellness Committee in 2:150-AP, *Superintendent Committees*. As much of the work of developing a plan to involve local stakeholders is administrative/staff work rather than governance work, best practice is for a Wellness Committee be an administrative committee, but consult the board attorney for guidance. See f/n 3 in policy 2:150, *Committees* for a discussion of Open Meetings Act implications of the Wellness Committee being a board committee.

If a board wants to comply with the USDA's encouragement to include Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators or educators in the group to provide input about the policy, add:

“, Supplemental Nutrition Assistance Program Education (SNAP-ED) coordinators, educators” to the end of the first sentence in this subhead, immediately before: “, and community.”

**24** If a board has not adopted the **Community Engagement** subhead in policy 8:10, *Connection with the Community*, delete the phrase at the end of the second sentence: “Individuals shall align their suggestions and comments to policy 2:140, *Communications To and From the Board* and/or the **Community Engagement** subhead in policy 8:10, *Connection with the Community*.”

A board may also choose to post this policy on its website and include it in the student handbook.



## Recordkeeping 25

The Superintendent ~~or designee~~ shall retain records to document compliance with this policy, the District's records retention protocols, and the Local Records Act.

LEGAL REF.: Child Nutrition and WIC Reauthorization Act of 2004, Pub. L. 108-265, Sec. 204.  
Child Nutrition Act of 1966, 42 U.S.C. §1771 et seq.  
National School Lunch Act, 42 U.S.C. §1751 et seq.  
Healthy, Hunger-Free Kids Act of 2010, 42 U.S.C. §1758b, Pub. L. 111-296.  
42 U.S.C. §1779, as implemented by 7 C.F.R. §§210.11 and 210.319.  
Local Records Act, 50 ILCS 205/.  
105 ILCS 5/2-3.139.  
23 Ill.Admin.Code Part 305, Food Program.  
ISBE's "School Wellness Policy" Goal, adopted Oct. 2007.

CROSS REF.: 2:140 (Communications To and From the Board), 2:150 (Committees), 2:240 (Board Policy Development), 4:120 (Food Services), 5:100 (Staff Development Program), 6:60 (Curriculum Content), 7:260 (Exemption from Physical Education), 8:10 (Connection with the Community)

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**25** 7 C.F.R. §210.319(f). Records must include: (1) the policy; (2) documentation demonstrating compliance with community involvement requirements, including requirements to make the local school wellness policy and triennial assessments available to the public; and (3) documentation of the triennial assessment of the local school wellness policy for each school under its jurisdiction.

See f/n 22, above regarding the Local Records Act and 2:250-AP2, Protocols for Record Preservation and Development of Retention Schedules.

While 7 C.F.R. §210.31(f) does not require the policy text to state what records must be kept, a board that wants to include that information may insert the following text: "Records must include: (1) this policy; (2) documentation demonstrating compliance with community involvement, including requirements to make the policy and triennial assessments available to the public; and (3) documentation of the triennial assessment of this policy for each school under its jurisdiction."

## Instruction

### Curriculum Content<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 <https://www.isbe.net/Documents/ccs-faq-0813.pdf>. [isbe.state.il.us/%5C/common-core/pdf/ccs-faq.pdf](https://www.isbe.net/Documents/ccs-faq-0813.pdf).

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

<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 f/n 2.

105 ILCS 5/27-22, ~~amended by P.A. 98-885~~, allows the substitution of an advanced placement computer science course for a year of mathematics. For specific requirements, see 6:300-E2, *State Law Graduation Requirements*, and 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-entering Students*.

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 E, Waiver and Modification Request Resource Guide.~~ To qualify to contract with a school district, a CDTS must (a) hold a valid license issued by the Ill. Sec. of State, and (b) provide instructors who hold a valid Ill. teaching certificate or license. ~~(Id.)~~ A district contracting with a CDTS must provide a list to ISBE of the CDTS instructors. ~~(Id.)~~ The list must include the name, personal ISBE identification number, birth date and driver's license number of each instructor who will teach driver education. ~~(Id.)~~ 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~~<sup>8</sup> 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>

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

<sup>15</sup> 105 ILCS 5/27-23.4.

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

105 ILCS 5/27-13.3 requires a unit on Internet safety for students in grades 3 or above. It recommends 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(c). A board that shares this concern may add the following option: "In addition, in all grades gang resistance education and training must be taught."

<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. Barnett, 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. ~~11/7/16~~5/22/17)* at: [www.isbe.net/Documents/fitness-asmt-faq.pdf](http://www.isbe.net/Documents/fitness-asmt-faq.pdf).

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

<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. 98-632).

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

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

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>22</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>

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

<sup>22</sup> 23 Ill.Admin.Code §1.420(i). 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(l).

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

<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, 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, the curriculum includes a unit of instruction on the history, struggles, and contributions of women.<sup>29</sup>
17. In all schools, the curriculum includes a unit of instruction on Black History, including the history of the African slave trade, slavery in America, and the vestiges of slavery in this country, as well as the struggles and contributions of African-Americans <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 5/27-20.3 requires the curriculum to include a *unit of instruction* on this subject but does not specify the amount of time that constitutes a *unit of instruction*.

<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.

## Instruction

### Home and Hospital Instruction 1

A student who is absent from school, or whose physician, physician assistant, or advanced practice registered nurse anticipates that the student will be absent from school, because of a medical condition may be eligible for instruction in the student's home or hospital.<sup>2</sup> Eligibility shall be determined by State law and the Illinois State Board of Education rules governing (1) the continuum of placement options for students who have been identified for special education services or (2) the home and hospital instruction provisions for students who have not been identified for special education services.<sup>3</sup> Appropriate educational services from qualified staff will begin no later than 5 five school days after receiving a physician's written statement.<sup>4</sup> Instructional or related services for a

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<sup>1</sup> State or federal law controls this policy's content. The following State laws and ISBE rules govern homebound and hospital instruction: 105 ILCS 5/14-13.01 (reimbursement for home and hospital instruction along with factors to qualify for it); 105 ILCS 5/18-4.5 (~~governs~~ reimbursement for home and hospital instruction); 105 ILCS 5/18-8.05, amended by P.A. 100-465 (for purposes of apportioning general state aid through the 2016-2017 school year, an instructional session of one clock hour may be counted as ½ day of attendance, however, a student must receive 4four or more instructional clock hours to count as a full day of attendance); 23 Ill.Admin.Code §226.300 (home/hospital service for a special education student); 23 Ill.Admin.Code §1.520; ISBE General State Aid Claim form.

See ISBE guidance, Home/Hospital Instruction and Reimbursement Questions and Answers available at: [www.isbe.net/Documents/home\\_hospital\\_qa.pdf](http://www.isbe.net/Documents/home_hospital_qa.pdf).

<sup>2</sup> 105 ILCS 5/14-13.01, amended by P.A. ~~97-123~~100-443, ~~re~~defines the standards for determining when a student is eligible to receive home or hospital instruction. A student ~~now~~ qualifies when a physician, physician assistant, or advanced practice nurse anticipates a student's absence due to a medical condition. The ~~Act~~ law ~~also defines~~ “ongoing intermittent basis” to mean a medical condition of such a nature and severity that it is anticipated that the student will be absent from school due to the medical condition for periods of at least 2two days at a time multiple times during the school year totaling at least 10 days or more of absences. 225 ILCS 65/20-10, amended by P.A. 100-513, revised the Nurse Practice Act to add registered to the definition of advanced practice registered nurse; accordingly, this policy reflects that change in terminology, even though Section 5/14-13.01 similarly has not been amended.

<sup>3</sup> 105 ILCS 5/14-13.01(a), amended by P.A. 100-443, requires that all students provide a written statement from a physician, physician assistant, or advanced practice registered nurse stating the existence of a medical condition, the impact on the child's ability to participate in education, and the anticipated duration or nature of the child's absence from school; However, ISBE rules at 23 Ill.Admin.Code §226.300 (students qualifying for special education services), and 23 Ill.Admin.Code §1.520 (students not qualifying for special education services) have not yet been amended to reflect that this written statement may come from a physician assistant or an advanced practice registered nurse; they still state that such a written statement must come from a physician. ISBE's Medical Certification for Home/Hospital Instruction form, form 34-58, reflects that the written statement may come from a “physician licensed to practice medicine in all its branches, APRN, or PA.” Available at: [www.isbe.net/Documents/34-58-home-hospital-inst.pdf](http://www.isbe.net/Documents/34-58-home-hospital-inst.pdf). ~~require, at a minimum, all students to provide a written statement from a physician licensed to practice medicine in all of its branches stating the existence of a medical condition, the impact on the student's ability to participate in education, and the anticipated duration or nature of the child's absence from school.~~

A student with health needs may be protected by the Individuals with Disabilities Education Act (20 U.S.C. §1401(3) or Section 504 of the Rehabilitation Act (29 U.S.C. §794(a)).

<sup>4</sup> There is no ~~longer a~~ requirement that a student be absent from school for a minimum number of days before he or she qualifies for home or hospital instruction. ~~(105 ILCS 5/14-13.01(a), amended by P.A. 97-123).~~ The ~~Act~~ now statute, amended by P.A. 100-443, allows schools to begin home or hospital instruction upon receipt of a physician's written statement from a physician, physician assistant, or advanced practice registered nurse but requires it to begin no later than 5five school days after receipt of the physician's written statement.

Both 23 Ill.Admin.Code §§226.300(g) and 1.520(f) require home or hospital instructors to meet the requirements listed in 23 Ill.Admin.Code §1.610, i.e., proper certification/licensure as required by Section 21B-15 of the amendments to the School Code (105 ILCS 5/21B-15), in P.A. 97-607 and 23 Ill.Admin.Code §25.464.



student receiving special education services will be determined by the student's individualized education program.

A student who is unable to attend school because of pregnancy will be provided home instruction, correspondence courses, or other courses of instruction (1) before the birth of the child when the student's physician, physician assistant, or advanced practice registered nurse indicates, in writing, that she is medically unable to attend regular classroom instruction, and (2) for up to ~~3~~three months after the child's birth or a miscarriage. <sup>5</sup>

Periodic conferences will be held between appropriate school personnel, parent(s)/guardian(s), and hospital staff to coordinate course work and facilitate a student's return to school.

LEGAL REF.: 105 ILCS 5/10-22.6a, 5/14-13.01, and 5/18-4.5, and 5/18-8.05.  
23 Ill.Admin.Code §§1.520, 1.610, and 226.300.

CROSS REF.: 6:120 (Education of Children with Disabilities), 7:10 (Equal Educational Opportunity), 7:280 (Communicable and Chronic Infectious Disease)

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<sup>5</sup> 105 ILCS 5/10-22.6a, amended by P.A. 100-443. Number (2) does not require a ~~physician's~~ written statement from a physician, physician assistant, or advanced practice registered nurse.

## Instruction

### High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students <sup>1</sup>

#### Credit for Non-District Experiences <sup>2</sup>

A student may receive high school credit for successfully completing any of the listed courses or experiences even when it is not offered in or sponsored by the District:

1. Distance learning course, including a correspondence, virtual, or online course
2. Courses in an accredited foreign exchange program
3. Summer school or community college courses <sup>3</sup>
4. College courses offering dual credit courses at both the college and high school level <sup>4</sup>
5. Foreign language courses taken in an ethnic school program approved by the Illinois State Board of Education <sup>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 that several of the programs in this policy be covered in policy. State law controls this policy's content. Note that 23 Ill.Admin.Code §1.420(b) requires "[e]very school district [to] have an organized plan for recording pupil progress and/or awarding credit, including credit for courses completed by correspondence, on\_line, or from other external sources, that can be disseminated to other schools within the State." Section 1.460 requires "[e]ach local board of education with a high school [to] adopt a policy which defines the board's position with reference to the awarding of high school credit on the basis of local examinations to pupils who have achieved the necessary proficiencies through independent study, either with or without private tutoring, or for work taken in or from another institution." 23 Ill.Admin.Code §1.460.

Sample policy 6:185, *Remote Educational Program*, provides for educational programs **delivered by the district** in a location outside of the school.

Sample policy 6:315, *High School Credit for Students in Grade 7 or 8*, allows students enrolled in grade 7 or 8 to enroll in a course required for high school graduation. ~~(105 ILCS 5/27-22.10(a), amended by P.A. 99-189; and 23 Ill.Admin.Code §1.440(c)(3)).~~

<sup>2</sup> Each board may choose for which, if any, of the listed non-district experiences the district will grant high school credit. If a district does not grant credit for any of the listed activities, substitute the following alternative for all text in the entire section: "The District does not grant graduation credit for learning experiences that an enrolled student does not complete through the District."

<sup>3</sup> 105 ILCS 5/27-22.1 provides that no fewer than 60 hours of classroom instruction in summer school is required for one semester of high school course credit. Districts may accept courses completed in a community college toward graduation. ~~(23 Ill.Admin.Code §1.440(f)).~~ Superintendents, pursuant to 105 ILCS 5/10-21.4, must annually report to ISBE the number of students enrolled in accredited courses at any community college along with the name(s) and number(s) of the course(s) each student is taking.

<sup>4</sup> The Dual Credit Quality Act ~~(110 ILCS 27/)~~ defines dual credit as a college course taken by a high school student for credit at both the college and high school level. 110 ILCS 27/5. An instructor who teaches a dual credit course does not need the certification required by Article 21 of the School Code. 110 ILCS 27/20(1). Dual credit programs will require cooperation between the school district and the institution providing the dual credit courses (see the Higher Education Student Assistance Act at 110 ILCS 947/10 for a definition of *institution*). A high school evaluation of a dual credit program must also incorporate the analysis of data from ISBE's statewide longitudinal data system (see the P-20 Longitudinal Education Data System Act, 105 ILCS 13/, for more information). 105 ILCS 5/10-20.60 (final citation pending), added by P.A. 100-133, eff. 1-1-18, requires school boards to require the district's high schools, if any, to inform all 11th and 12th grade students of dual enrollment and dual credit opportunities at public community colleges for qualified students.

<sup>5</sup> 105 ILCS 5/2-3.44 and 5/10-22.43a. An ethnic school is a part-time, private school that teaches the foreign language of a particular ethnic group as well as the culture, geography, history, and other aspects of a particular ethnic group. 105 ILCS 5/2-3.44; 23 Ill.Admin.Code §1.465(b). For requirements, see 23 Ill.Admin.Code §1.465.

6. Work-related training at manufacturing facilities or agencies in a Youth Apprenticeship Vocational Education Program (Tech Prep) 6
7. Credit earned in a Vocational Academy 7

The student must seek approval from the Superintendent or designee to receive graduation credit for any non-District course or experience. The Superintendent or designee shall determine the amount of credit and whether a proficiency examination is required before the credit is awarded. As approval is not guaranteed, students should seek conditional approval of the experience before participating in a non-District course or experience. The student assumes responsibility for any fee, tuition, supply, or other expense. The student seeking credit is responsible for (1) providing documents or transcripts that demonstrate successful completion of the experience, and (2) taking a proficiency examination, if requested. The Superintendent or designee shall determine which, if any, non-District courses or experiences, will count toward a student's grade point average, class rank, and eligibility for athletic and extracurricular activities. This section does not govern the transfer of credits for students transferring into the District.

#### Substitutions for Required Courses

**Vocational or technical education.**<sup>8</sup> A student in grades 9-12 may satisfy one or more high school courses (including physical education) or graduation requirements by successfully completing related vocational or technical education courses if:

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

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

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<sup>6</sup> The State Superintendent and Board of Higher Education were encouraged by 105 ILCS 5/2-3.115 to establish a program of academic credit for youth apprenticeship vocational education programs, which could be instituted by school districts. See also 23 Ill.Admin.Code §1.445.

<sup>7</sup> Vocational Academies Act, 105 ILCS 433/. The Act's purpose is to "integrate workplace competencies and career and technical education with core academic subjects." School districts are permitted to partner with community colleges, local employers, and community-based organizations to establish a vocational academy that functions as a two-year school within a school for grades 10 through 12. Grant funds may be available from ISBE when the vocational academy meets statutory requirements.

<sup>8</sup> Allowing this substitution is optional, but, if offered, must be included in board policy. ~~(105 ILCS 5/27-22.05).~~ The related requirement is met if the course contains at least 50% of the content of the required course. Id., 23 Ill.Admin.Code §1.445 requires that the vocational or technical education course be completely described in the policy along with its relationship to the required course. The sample policy satisfies these requirements by referring to the courses as described in curricular material.

ISBE requires that the parent/guardian of a student under the age of 18 request the course substitution "on forms that the school district makes available" and that the request must be maintained in the student's temporary record. ~~(23 Ill.Admin.Code §1.445).~~ See 6:310-E, *Class Substitution Request*.

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

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

1. ~~Enrollment~~Ongoing participation in a marching band program for credit;
2. Enrollment in Reserve Officer's Training Corps (ROTC) program sponsored by the District;
3. Ongoing participation in an interscholastic or extracurricular athletic program ~~(student must be in the 11th or 12th grade)~~;
4. Enrollment in academic classes that are required for admission to an institution of higher learning (student must be in the 11th or 12th grade); or
5. Enrollment in academic classes that are required for graduation from high school, provided that failure to take such classes will result in the student being unable to graduate (student must be in the 11th or 12th grade).

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

**Volunteer service credit.**<sup>12</sup> A student participating in the District's Volunteer Service Credit Program, if any, may earn credit toward graduation for the performance of community service. The amount of credit given for program participation shall not exceed that given for completion of one semester of language arts, math, science, or social studies.

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<sup>10</sup> Optional, but allowed by 105 ILCS 5/27-6(b), amended by P.A. 100-465; 23 Ill.Admin.Code §1.425(e) and (f). A board that wants to allow any of these P.E. exemptions must include the ones it selects in a policy that excuses students on an individual basis.

This policy excuses students from P.E. only during the marching band season because the statute allows the exemption "for ongoing participation in such marching band program." Thus, if the marching band season is over, the student's *ongoing participation* has ceased and the student no longer qualifies for the P.E. exemption. Common sense, however, would allow the exemption to continue until the end of the current grading period.

Prior to P.A. 100-465, the statute only allowed students in grades 11 and 12 to be excused from P.E. "for ongoing participation in an interscholastic athletic program." 105 ILCS 5/27-6(b)(1). 105 ILCS 5/27-6(b), amended by P.A. 100-465, now states "on a case-by-case basis, excuse pupils in grades 7 through 12 who participate in an interscholastic or extracurricular athletic program." It does not require such participation to be ongoing. Common sense, however, would allow the exemption to continue only until the end of the grading period during which the athletic program is active.

State law does not define interscholastic athletic program or extracurricular athletic program; however, 105 ILCS 5/22-80 defines interscholastic athletic activity as "any organized school-sponsored or school-sanctioned activity for students, generally outside of school instructional hours, under the direction of a coach, athletic director, or band leader, including, but not limited to, baseball, basketball, cheerleading, cross country track, fencing, field hockey, football, golf, gymnastics, ice hockey, lacrosse, marching band, rugby, soccer, skating, softball, swimming and diving, tennis, track (indoor and outdoor), ultimate Frisbee, volleyball, water polo, and wrestling."

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

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

<sup>11</sup> 23 Ill.Admin.Code §1.425(f).

<sup>12</sup> Optional. The credit given for one semester may not exceed that stated in this policy. ~~(105 ILCS 5/27-22.3).~~ The program may include participation in the organization of a high school or community blood drive or other blood donor recruitment campaign. Id. ISBE must provide assistance to districts opting to offer the program. ~~(105 ILCS 5/2-3.108).~~

### Re-Entering Students 13

Individuals younger than 21 years of age may re-enter high school to acquire a high school diploma or an equivalency certificate, subject to the limitations in Board policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*. Re-entering students may obtain credit through the successful completion of the following (not all of these may be available at any one time):

1. District courses
2. Non-District experiences described in this policy
3. Classes in a program established under Section 10-22.20 of the School Code, in accordance with the standards established by the Illinois Community College Board
4. Proficiency testing, correspondence courses, life experiences, and other nonformal educational endeavors
5. Military service, provided the individual making the request has a recommendation from the American Council on Education

The provisions in the section **Credit for Non-District Experiences**, above, apply to the receipt of credit for any non-District course.

LEGAL REF.: 105 ILCS 5/2-3.44, 5/2-3.108, 5/2-3.115, 5/2-3.142, 5/10-22.43a, 5/27-6, 5/27-22.3, and 5/27-22.05.  
23 Ill.Admin.Code §§1.425(e) and (f), 1.440(f), and 1.470(c).

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

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<sup>13</sup> Required by 23 Ill.Admin.Code §1.470(a). While the sample policy does not provide for it, a school board may permit adults 21 years of age or older to re-enter high school\_ ~~23 Ill.Admin.Code §1.470(b)~~. Items #4 & #5 are optional, but must be included in a policy if credit will be granted for them. [105 ILCS 5/27-6, 27-22.05](#).

## Students

### Harassment of Students Prohibited <sup>1</sup>

#### Bullying, Intimidation, and Harassment Prohibited

No person, including a District employee or agent, or student, shall harass, intimidate, or bully a student on the basis of actual or perceived: race; color; national origin; military status; unfavorable discharge status from military service; sex; sexual orientation; gender identity; gender-related identity or expression; ancestry; age; religion; physical or mental disability; order of protection status; status of being homeless; actual or potential marital or parental status, including pregnancy; association with a person or group with one or more of the aforementioned actual or perceived characteristics; or any other distinguishing characteristic. The District will not tolerate harassing, intimidating conduct, or bullying whether verbal, physical, sexual, or visual, that affects the tangible benefits of education, that unreasonably interferes with a student's educational performance, or that creates an intimidating, hostile, or offensive educational environment. Examples of prohibited conduct include name-calling, using derogatory slurs, stalking, sexual violence, causing psychological harm, threatening or causing physical harm, threatened or actual destruction of property, or wearing or possessing items depicting or implying hatred or prejudice of one of the characteristics stated above. <sup>2</sup>

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<sup>1</sup> State or federal law requires this subject matter be covered by policy and controls this policy's content. Each district must have a policy on bullying. ~~(105 ILCS 5/27-23.7, amended by P.A. 100-13798-669);~~ see 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

This policy's list of protected classifications is identical to the list in 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*. The protected classifications are found in 105 ILCS 5/27-23.7(a); 775 ILCS 5/1-103; and 23 Ill.Admin.Code §1.240.

The list of protected classifications in sample policy 7:10, *Equal Educational Opportunities*, is different – it does not contain the classifications that are exclusively identified in the bullying statute. ~~(105 ILCS 5/27-23.7).~~

The Ill. Human Rights Act (IHRA) and an ISBE rule prohibit schools from discriminating against students on the basis of *sexual orientation* and *gender identity*. ~~(775 ILCS 5/5-101(11); 23 Ill.Admin.Code §1.240).~~ *Sexual orientation* is defined as the "actual or perceived heterosexuality, homosexuality, bisexuality, or gender related identity, whether or not traditionally associated with the person's designated sex at birth." ~~(775 ILCS 5/1-103(O-1)).~~ *Gender identity* is included in the definition of sexual orientation in the Act. The Act permits schools to maintain single-sex facilities that are distinctly private in nature, e.g., restrooms and locker rooms. ~~(775 ILCS 5/5-103). 775 ILCS 5/1-102(A), added order of protection status to its list of protected categories. The Ill. Human Rights Act (IHRA)'s jurisdiction is specifically limited to: (1) failing to enroll an individual, (2) denying access to facilities, goods, or services, or (3) failing to take corrective action to stop severe or pervasive harassment of an individual. (775 ILCS 5/5-102.2).~~

<sup>2</sup> This list of examples of prohibited conduct is optional. While hate speech is not specifically mentioned in this paragraph, any hate speech used to harass or intimidate is banned. Hate speech without accompanying misconduct may be prohibited in response to actual incidences when hate speech interfered with the educational environment. West v. Derby Unified Sch. Dist., 206 F.3d 1358 (10th Cir. 2000).

## Sexual Harassment Prohibited

Sexual harassment of students is prohibited.<sup>3</sup> Any person, including a district employee or agent, or student, engages in sexual harassment whenever he or she makes sexual advances, requests sexual favors, and/or engages in other verbal or physical conduct, including sexual violence, of a sexual or sex-based nature, imposed on the basis of sex, that:

1. Denies or limits the provision of educational aid, benefits, services, or treatment; or that makes such conduct a condition of a student's academic status; or
2. Has the purpose or effect of:
  - a. Substantially interfering with a student's educational environment;
  - b. Creating an intimidating, hostile, or offensive educational environment;
  - c. Depriving a student of educational aid, benefits, services, or treatment; or
  - d. Making submission to or rejection of such conduct the basis for academic decisions affecting a student.

The terms *intimidating*, *hostile*, and *offensive* include conduct that has the effect of humiliation, embarrassment, or discomfort. Examples of sexual harassment include touching, crude jokes or pictures, discussions of sexual experiences, teasing related to sexual characteristics, and spreading rumors related to a person's alleged sexual activities. The term *sexual violence* includes a number of different acts. Examples of sexual violence include, but are not limited to, rape, sexual assault, sexual battery, sexual abuse, and sexual coercion.

## Making a Complaint: Enforcement

Students are encouraged to report claims or incidences of bullying, harassment, sexual harassment, or any other prohibited conduct to the Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, ~~or~~ a Complaint Manager, or any staff member with whom the student is comfortable speaking.<sup>4</sup> A student may choose to report to a person of the student's same

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<sup>3</sup> Title IX of the Education Amendments of 1972 (Title IX) prohibits discrimination on the basis of sex in any educational program or activity receiving federal financial assistance, ~~(20 U.S.C. §1681).~~ For purposes of Title IX, sexual harassment of students includes acts of sexual violence. Consult the board attorney to ensure the non-discrimination coordinator and complaint managers are trained to appropriately respond to allegations of discrimination based upon sexual violence under Title IX's sexual harassment umbrella. Several guidance documents highlight appropriate responses to sexual violence under Title IX. See ~~f/n 34~~ in policy 2:260, *Uniform Grievance Procedure* for a listing and links to these documents.

The sample policy's definition of *sexual harassment* does not distinguish between *welcome* and *unwelcome* behaviors - each is prohibited if it has a result described in sub-paragraph 1 or 2. See Mary M. v. North Lawrence Community School Sch. Corp., 131 F.3d 1220 (7th Cir., 1997) (An eighth grade student did not need to show that a school employee's sexual advances were *unwelcome* in order to prove sexual harassment.).

School districts are liable for damage awards for an employee's sexual harassment of a student in limited situations. Liability occurs only when a district official who, at a minimum, has authority to institute corrective action, has actual notice of and is deliberately indifferent to the employee's misconduct. Gebser v. Lago Vista Independent School Sch. District, ~~118 S.Ct. 1989~~ 524 U.S. 274 (1998). Schools are liable in student-to-student sexual harassment cases when school agents are deliberately indifferent to sexual harassment, of which they have actual knowledge, that is so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school. Davis v. Monroe County Board of Education, ~~119 S.Ct. 1661~~ 526 U.S. 629 (1999). The Ill. Dept. of Human Rights now has jurisdiction over allegations that a school failed to take corrective action to stop severe or pervasive harassment of an individual based upon a protected category, ~~(775 ILCS 5/5-102.2).~~

<sup>4</sup> Using "or any staff member with whom the student is comfortable speaking" is consistent with 7:180, Prevention of and Response to Bullying, Intimidation, and Harassment. By including "any staff member" in this list, this policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right.

sex. Complaints will be kept confidential to the extent possible given the need to investigate. Students who make good faith complaints will not be disciplined.

An allegation that a student was a victim of any prohibited conduct perpetrated by another student shall be referred to the Building Principal, Assistant Building Principal, or Dean of Students for appropriate action.

The Superintendent shall insert into this policy the names, addresses, and telephone numbers of the District's current Nondiscrimination Coordinator and Complaint Managers.<sup>5</sup> At least one of these individuals will be female, and at least one will be male.

**Nondiscrimination Coordinator: 6**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Email

\_\_\_\_\_  
Telephone

**Complaint Managers:**

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

The Superintendent shall use reasonable measures to inform staff members and students of this policy, such as, by including it in the appropriate handbooks. <sup>7</sup>

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<sup>5</sup> Title IX regulations require districts to identify the person, address, and telephone number of the individual responsible for coordinating the district's compliance efforts. The U.S. Dept. of Education's Office for Civil Rights prefers that school districts make Title IX information and coordinators visible to the community, and it has provided materials designed to remind schools of their obligation to designate a Title IX coordinator. These materials include: (a) a *Dear Colleague Letter on Title IX Coordinators*; (b) a *Letter to Title IX Coordinators* that provides them with more information about their role; and (c) a *Title IX Resource Guide* that includes an overview of Title IX's requirements with respect to several key issues. See [www2.ed.gov/policy/rights/guid/ocr/title-ix-coordinators.html](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.

Each district must communicate its bullying policy to students and their parents/guardians. §105 ILCS 5/27-23.7, amended by P.A. 100-137; see 7:180, *Prevention of and Response to Bullying, Intimidation, and Harassment*.

<sup>6</sup> Sample policy 2:260, *Uniform Grievance Procedure*, states that a district's Nondiscrimination Coordinator also serves as its Title IX Coordinator. Best practice is that throughout the district's board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.



Any District employee who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action up to and including discharge. Any District student who is determined, after an investigation, to have engaged in conduct prohibited by this policy will be subject to disciplinary action, including but not limited to, suspension and expulsion consistent with the behavior policy. Any person making a knowingly false accusation regarding prohibited conduct will likewise be subject to disciplinary action up to and including discharge, with regard to employees, or suspension and expulsion, with regard to students.

- LEGAL REF.: 20 U.S.C. §1681 et seq., Title IX of the Educational Amendments of 1972.  
34 C.F.R. Part 106.  
105 ILCS 5/10-20.12, 10-22.5, 5/27-1, and 5/27-23.7.  
775 ILCS 5/1-101 et seq., Illinois Human Rights Act.  
23 Ill.Admin.Code §1.240 and Part 200.  
Davis v. Monroe County Board of Education, 526 U.S. 629 (1999).  
Franklin v. Gwinnett Co. Public Schools, 503 U.S. 60 (1992).  
Gebser v. Lago Vista Independent School District, 524 U.S. 274 (1998).  
West v. Derby Unified School District No. 260, 206 F.3d 1358 (10th Cir., 2000).
- CROSS REF.: 2:260 (Uniform Grievance Procedure), 5:20 (Workplace Harassment Prohibited), 7:10 (Equal Educational Opportunities), 7:180 (Prevention of and Response to Bullying, Intimidation, and Harassment), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:240 (Conduct Code for Participants in Extracurricular Activities)

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<sup>7</sup> In addition to notifying students of the Uniform Grievance Procedure, a district must notify them of the person(s) designated to coordinate the district's compliance with Title IX. 34 C.F.R. Part 106.8(a). A comprehensive student 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.

The Illinois Principals Association maintains a handbook service that coordinates with PRESS material. Online Model Student Handbook (MSH), at: [www.ilprincipals.org/resources/model-student-handbook](http://www.ilprincipals.org/resources/model-student-handbook).

## Students

### Attendance and Truancy 1

#### Compulsory School Attendance 2

This policy applies to individuals who have custody or control of a child: (a) between the ages of six (on or before September 1) and 17 years (unless the child has graduated from high school), or (b) who is enrolled in any of grades kindergarten through 12 in the public school regardless of age.

Subject to specific requirements in State law, the following children are not required to attend public school: (1) any child attending a private school (including a home school) or parochial school, (2) any child who is physically or mentally unable to attend school (including a pregnant student suffering medical complications as certified by her physician), (3) any child lawfully and necessarily employed, (4) any child over 12 and under 14 years of age while in confirmation classes, (5) any child absent because his or her religion forbids secular activity on a particular day, and (6) any child 16 years of age or older who is employed and is enrolled in a graduation incentives program.

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

#### Absenteeism and Truancy Program

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

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

**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 boards to adopt a policy covering some of the topics herein and controls this policy's content. 105 ILCS 5/26-13 requires a policy identifying supportive services and available resources for *truants and chronic truants (defined in 105 ILCS 5/26-2a)*. 23 Ill.Admin.Code §1.290 requires the same plus that the policy contain a definition of *valid cause* for absence in accordance with 105 ILCS 5/26-2a and a description of diagnostic procedures to identify the cause(s) of *unexcused student* absenteeism.

<sup>2</sup> 105 ILCS 5/26-2 addresses enrolled students below or over set compulsory attendance ages. The law also requires any persons having custody or control of a child who is enrolled in grades kindergarten through 12 in the public school to cause the child to attend school.

105 ILCS 5/26-1 contains the compulsory school age exemptions. Each listed exception is specifically included in the statute, except the reference to *home school*. See ~~policy-7:40, Nonpublic School Students, Including Parochial and Home-Schooled Students~~, regarding assigning students who enroll from a non-public school. See ~~policy-6:150, Home and Hospital Instruction~~, regarding providing instruction to a pregnant student who is medically unable to attend school.

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

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

2. A protocol for excusing a student in grades 6 through 12 from attendance to sound *Taps* at a military honors funeral held in Illinois for a deceased veteran. <sup>5</sup>
- 2.3. A protocol for excusing a student from attendance on a particular day(s) or at a particular time of day when his/her parent/guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or combat-support postings.<sup>6</sup>
- 3.4. A process to telephone, within two hours after the first class, the parents/guardians of students in grade 8 or below who are absent without prior parent/guardian notification. <sup>7</sup>
- 4.5. A process to identify and track students who are truants, chronic or habitual truants, or truant minors as defined in the School Code, Section 26-2a.
- 5.6. A description of diagnostic procedures for identifying the cause(s) of a student's unexcused absenteeism, including interviews with the student, his or her parent(s)/guardian(s), and staff members or other people who may have information about the reasons for the student's attendance problem. <sup>8</sup>
- 6.7. The identification of supportive services that may be offered to truant, ~~or~~ chronically truant, or chronically absent students, including parent-teacher conferences, student and/or family counseling, or information about community agency services.<sup>9</sup> See Board policy 6:110,

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

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

<sup>5</sup> 105 ILCS 5/26-1, amended by P.A. 99-804, ~~eff. 1-1-17~~. A student must notify the building principal or other administrator at least two days prior to the absence providing the date, time, and location of the military honors funeral. This requirement may be waived if the student did not receive notice at least two days in advance, but the student shall notify the administration as soon as possible of the absence.

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

6 105 ILCS 5/26-1, amended by P.A. 100-185. Such a student must be granted five days of excused absences in any school year and, at the board's discretion, may be granted additional excused absences to visit the student's parent/guardian. The student and his/her parent/guardian are responsible for obtaining assignments from the student's teacher prior to any period of excused absence and for ensuring that such assignments are completed by the student prior to his/her return to school from the excused absence period. Id.

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

<sup>8</sup> 23 Ill.Admin.Code §1.290(b)(2).

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. The General Assembly found this requirement necessary because "when students do not have access to affordable feminine hygiene products, they may miss multiple days of school every month." 105 ILCS 5/10-20.60(a)(3).

<sup>9</sup> 23 Ill.Admin.Code §1.290(b)(3). The School Code references to dropout prevention include: 105 ILCS 5/26-3a (regional superintendent activities and annual report); 105 ILCS 5/10-20.25a (annual report by boards); and 105 ILCS 5/1A-4(E) (~~State Board of Education~~ ISBE report).

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

- ~~7.8.~~ A process to request the assistance and resources of outside agencies, such as, the juvenile officer of the local police department or the truant office of the appropriate Regional Office of Education, if truancy continues after supportive services have been offered. **10**
- ~~8.9.~~ A protocol for cooperating with non-District agencies including County or municipal authorities, the Regional Superintendent, truant officers, the Community Truancy Review Board, and a comprehensive community based youth service agency. Any disclosure of school student records must be consistent with Board policy 7:340, *Student Records*, as well as State and federal law concerning school student records. **11**
- ~~9.10.~~ An acknowledgement that no punitive action, including out-of-school suspensions, expulsions, or court action, shall be taken against a chronic truant for his or her truancy unless available supportive services and other school resources have been provided to the student. **12**
- ~~10.11.~~ The criteria to determine whether a student's non-attendance is due to extraordinary circumstances shall include economic or medical necessity or family hardship and such other criteria that the Superintendent believes qualifies. **13**

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105 ILCS 5/26-18, added by P.A. 100-156, eff. 1-1-18, requires that, beginning 7-1-18, districts collect and review chronic absence data and determine what systems of support and resources are needed to engage chronically absent students and their families to encourage the habit of daily attendance and promote success. 105 ILCS 5/26-18(c). The review must include an analysis of chronic absence data from each attendance center. Id. Districts are also encouraged to: (1) provide a system of support to students at risk of reaching or exceeding chronic absence levels, i.e., those available through the Illinois Multi-tiered Systems of Support Network; and (2) make resources available to families, i.e., those available through ISBE's Family Engagement Framework, to support and engage students and their families. 105 ILCS 5/26-18(d). Chronic absence means "absences that total 10% or more of school days of the most recent school year, including absences with and without valid cause, as defined in Section 26-2a of this Code, and out-of-school suspensions for an enrolled student." 105 ILCS 5/26-18(a). In contrast, a chronic or habitual truant is "a child who is subject to compulsory school attendance and who is absent without valid cause from such attendance for 5% or more of the previous 180 regular attendance days." 105 ILCS 5/26-2a.

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

**11** 105 ILCS 5/26-9 requires school officers and superintendents to assist truant officers. A minor who is reported by the regional superintendent as a chronic truant may be adjudicated a "truant minor in need of supervision" if the minor declines or refuses to fully participate in truancy intervention services. ~~(705 ILCS 405/3-33.5).~~

Counties may regulate truants by ordinance and impose fines and/or community services on truants or, if the truant is under 10 years of age, on the parent or custodian. ~~(55 ILCS 5/5-1078.2).~~ Municipalities may regulate truants by ordinance and impose fines and/or community services on truants or, if the truant is under 13 years of age, on the parent or custodian. ~~(65 ILCS 5/11-5-9).~~ Local officials or authorities that enforce, prosecute, or adjudicate municipal ordinances adopted under 65 ILCS 5/11-5-9, or that work with school districts to address truancy problems, are designated as: (a) part of the juvenile justice system, established by the Juvenile Court Act of 1987, and (b) *juvenile authorities* within the definition set forth in subsection (a)(6.5) of Section 10-6 of the Ill. School Student Records Act (105 ILCS 10/6(a)(6.5)). Id. **A superintendent should consult with the board attorney before disclosing school student records to non-district entities.** See 7:340-AP, *Student Records* for a sample procedure for release of such records to juvenile authorities.

**12** 105 ILCS 5/26-12 prohibits punitive action "unless available supportive services and other school resources have been provided to the student."

**13** 105 ILCS 5/26-3a requires the district to "establish, in writing, a set of criteria for use by the local superintendent of schools in determining whether a pupil's failure to attend school is the result of extraordinary circumstances, including but not limited to economic or medical necessity or family hardship."

## Students

### Prevention of and Response to Bullying, Intimidation, and Harassment 1

Bullying, intimidation, and harassment diminish a student’s ability to learn and a school’s ability to educate. Preventing students from engaging in these disruptive behaviors and providing all students equal access to a safe, non-hostile learning environment are important District goals.

Bullying on the basis of actual or perceived race, color, national origin, military status, unfavorable discharge status from the military service, sex, sexual orientation, gender identity, gender-related identity or expression, ancestry, age, religion, physical or mental disability, order of protection status, status of being homeless, or actual or potential marital or parental status, including pregnancy, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic **is prohibited** in each of the following situations: 2

1. During any school-sponsored education program or activity.
2. While in school, on school property, on school buses or other school vehicles, at designated school bus stops waiting for the school bus, or at school-sponsored or school-sanctioned events or activities.
3. Through the transmission of information from a school computer, a school computer network, or other similar electronic school equipment.
4. Through the transmission of information from a computer that is accessed at a nonschool-related location, activity, function, or program or from the use of technology or an electronic device that is not owned, leased, or used by the School District or school if the bullying causes a substantial disruption to the educational process or orderly operation of a school. This paragraph (item #4) applies only when a school administrator or teacher receives a report that bullying through this means has occurred; it does not require staff members to monitor any nonschool-related activity, function, or program.

### Definitions from Section 27-23.7 of the School Code (105 ILCS 5/27-23.7) 3

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<sup>1</sup> All districts must have a policy on bullying. ~~(105 ILCS 5/27-23.7, amended by P.A.s 100-13798-669 and 98-801 (eff. 1-1-2015)).~~ Every ~~two~~ years, each district must review and re-evaluate this policy, make necessary and appropriate revisions, and file the updated policy with ISBE. This sample policy’s first paragraph allows a school board to consider its goals for preventing bullying and remedying its consequences; it may be amended.

In addition to a bullying prevention policy, all districts must have a policy on student behavior. ~~(105 ILCS 5/10-20.14; 23 Ill.Admin.Code §1.280).~~ Boards must, in consultation with their parent-teacher advisory committees and other community-based organizations, address aggressive behavior, including bullying, in their student behavior policy. See 7:190, *Student Behavior*; 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

~~This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. See f/n 7, below.~~

<sup>2</sup> This paragraph and its subparts 1-4 are from the bullying prevention statute. ~~(105 ILCS 5/27-23.7(a); see also 775 ILCS 5/1-103 and 23 Ill.Admin.Code §1.240).~~ The protected statuses are mandated by the bullying prevention statute; the list of protected statuses is identical to the list in 7:20, *Harassment of Students Prohibited*.

<sup>3</sup> All definitions are directly from 105 ILCS 5/27-23.7, amended by P.A.s ~~100-13798-669 and 98-801 (eff. 1-1-2015)~~.

*Bullying* includes *cyberbullying* and means any severe or pervasive physical or verbal act or conduct, including communications made in writing or electronically, directed toward a student or students that has or can be reasonably predicted to have the effect of one or more of the following:

1. Placing the student or students in reasonable fear of harm to the student's or students' person or property;
2. Causing a substantially detrimental effect on the student's or students' physical or mental health;
3. Substantially interfering with the student's or students' academic performance; or
4. Substantially interfering with the student's or students' ability to participate in or benefit from the services, activities, or privileges provided by a school.

*Cyberbullying* means bullying through the use of technology or any electronic communication, including without limitation any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic system, photo-electronic system, or photo-optical system, including without limitation electronic mail, Internet communications, instant messages, or facsimile communications. *Cyberbullying* includes the creation of a webpage or weblog in which the creator assumes the identity of another person or the knowing impersonation of another person as the author of posted content or messages if the creation or impersonation creates any of the effects enumerated in the definition of *bullying*. *Cyberbullying* also includes the distribution by electronic means of a communication to more than one person or the posting of material on an electronic medium that may be accessed by one or more persons if the distribution or posting creates any of the effects enumerated in the definition of *bullying*.

*Restorative measures* means a continuum of school-based alternatives to exclusionary discipline, such as suspensions and expulsions, that: (i) are adapted to the particular needs of the school and community, (ii) contribute to maintaining school safety, (iii) protect the integrity of a positive and productive learning climate, (iv) teach students the personal and interpersonal skills they will need to be successful in school and society, (v) serve to build and restore relationships among students, families, schools, and communities, and (vi) reduce the likelihood of future disruption by balancing accountability with an understanding of students' behavioral health needs in order to keep students in school.

*School personnel* means persons employed by, on contract with, or who volunteer in a school district, including without limitation school and school district administrators, teachers, school guidance counselors, school social workers, school counselors, school psychologists, school nurses, cafeteria workers, custodians, bus drivers, school resource officers, and security guards.

#### Bullying Prevention and Response Plan

The Superintendent or designee shall develop and maintain a bullying prevention and response plan that advances the District's goal of providing all students with a safe learning environment free of bullying and harassment. This plan must be consistent with the requirements listed below; each numbered requirement, 1-12, corresponds with the same number in the list of required policy components in 105 ILCS 5/27-23.7(b) 1-12. **4**

1. The District uses the definition of *bullying* as provided in this policy. **5**

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**4** As each numbered requirement, 1-12, corresponds with the same number in 5/27-23.7(b)-1-12, there are no reference citations in footnotes. All non-statutory requirements, plus alternatives and optional provisions, are described in footnotes.

**5** A board may augment the School Code requirement by using this alternative:

2. Bullying is contrary to State law and the policy of this District. However, nothing in the District’s bullying prevention and response plan is intended to infringe upon any right to exercise free expression or the free exercise of religion or religiously based views protected under the First Amendment to the U.S. Constitution or under Section 3 of Article I of the Illinois Constitution.
3. Students are encouraged to immediately report bullying. A report may be made orally or in writing to the ~~District Nondiscrimination Coordinator, Building Principal, Assistant Building Principal, Dean of Students, a~~ Complaint Manager, or any staff member with whom the student is comfortable speaking.<sup>6</sup> Anyone, including staff members and parents/guardians, who has information about actual or threatened bullying is encouraged to report it to the District ~~named officials–Complaint Manager~~ or any staff member. The District named officials and all staff members are available for help with a bully or to make a report about bullying.<sup>7</sup> Anonymous reports are also accepted.

**Complaint Manager Nondiscrimination Coordinator: 8**

\_\_\_\_\_

Name

\_\_\_\_\_

Address

\_\_\_\_\_

Email

\_\_\_\_\_

Telephone

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Using the definition of *bullying* as provided in this policy, the Superintendent or designee shall emphasize to the school community that: (a) the District prohibits bullying, and (b) all students should conduct themselves with a proper regard for the rights and welfare of other students. This may include a process for commending or acknowledging students for demonstrating appropriate behavior.

<sup>6</sup> The statute requires that the policy contain the email address and telephone number for the staff person(s) responsible for receiving bullying reports. Using the district ~~Complaint Manager or Nondiscrimination Coordinator and Complaint Managers~~ is consistent with 2:260, *Uniform Grievance Procedure*. While the names and contact information are required by law to be listed, they are not part of the adopted policy and do not require board action. This allows for additions and amendments to the names and contact information when necessary. It is important for updated names and contact information to be inserted into this policy and regularly monitored. A board may substitute or add the Nondiscrimination Coordinator, Building Principal, or other position in this paragraph and below with the contact information. A board may also add a telephone number for making anonymous reports may also be added.

<sup>7</sup> 105 ILCS 5/27-23.7(d), amended by P.A. 100-137, requires that “[s]chool personnel available for help with a bully or to make a report about bullying” be made known to parents/guardians, students, and school personnel.

<sup>8</sup> Sample policy 2:260, *Uniform Grievance Procedure*, states that a district’s Nondiscrimination Coordinator also serves as its Title IX Coordinator. Best practice is that throughout the district’s board policy manual, the same individual be named as Nondiscrimination Coordinator. In contrast, Complaint Managers identified in individual policies may vary depending upon local district needs.

**Complaint Managers:**

Name

Name

Address

Address

Email

Email

Telephone

Telephone

4. Consistent with federal and State laws and rules governing student privacy rights, the Superintendent or designee shall promptly inform the parent(s)/guardian(s) of every student involved in an alleged incident of bullying and discuss, as appropriate, the availability of social work services, counseling, school psychological services, other interventions, and restorative measures. <sup>9</sup>
5. The Superintendent or designee shall promptly investigate and address reports of bullying, by, among other things:
  - a. Making all reasonable efforts to complete the investigation within 10 school days after the date the report of a bullying incident was received and taking into consideration additional relevant information received during the course of the investigation about the reported bullying incident.
  - b. Involving appropriate school support personnel and other staff persons with knowledge, experience, and training on bullying prevention, as deemed appropriate, in the investigation process.
  - c. Notifying the Building Principal or school administrator or designee of the reported incident of bullying as soon as possible after the report is received.
  - d. Consistent with federal and State laws and rules governing student privacy rights, providing parents/guardians of the students who are parties to the investigation information about the investigation and an opportunity to meet with the Building Principal or school administrator or his or her designee to discuss the investigation, the findings of the investigation, and the actions taken to address the reported incident of bullying.

The Superintendent or designee shall investigate whether a reported incident of bullying is within the permissible scope of the District's jurisdiction and shall require that the District provide the victim with information regarding services that are available within the District and community, such as counseling, support services, and other programs. <sup>10</sup>

6. The Superintendent or designee shall use interventions to address bullying, that may include, but are not limited to, school social work services, restorative measures, social-emotional skill building, counseling, school psychological services, and community-based services.

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<sup>9</sup> 105 ILCS 5/10-20.14 contains a similar requirement. See 7:190-E1, *Aggressive Behavior Reporting Letter and Form*.

<sup>10</sup> This sentence contains requirements found in 105 ILCS 5/27-23.7(d), ~~amended by P.A. 98-801 (eff. 1-1-2015)~~.



7. A reprisal or retaliation against any person who reports an act of bullying **is prohibited**. A student's act of reprisal or retaliation will be treated as *bullying* for purposes of determining any consequences or other appropriate remedial actions.
8. A student will not be punished for reporting bullying or supplying information, even if the District's investigation concludes that no bullying occurred. However, knowingly making a false accusation or providing knowingly false information will be treated as *bullying* for purposes of determining any consequences or other appropriate remedial actions.
9. The District's bullying prevention and response plan must be based on the engagement of a range of school stakeholders, including students and parents/guardians.
10. The Superintendent or designee shall post this policy on the District's ~~Internet~~ website, if any, and include it in the student handbook, and, where applicable, post it where other policies, rules, and standards of conduct are currently posted. The policy must ~~also~~ be distributed annually to parents/guardians, students, and school personnel; (including new employees when hired), and must also be provided periodically throughout the school year to students and faculty.<sup>11</sup>
11. The Superintendent or designee shall assist the Board with its evaluation and assessment of this policy's outcomes and effectiveness. This process shall include, without limitation:
  - a. The frequency of victimization;
  - b. Student, staff, and family observations of safety at a school;
  - c. Identification of areas of a school where bullying occurs;
  - d. The types of bullying utilized; and
  - e. Bystander intervention or participation.

The evaluation process may use relevant data and information that the District already collects for other purposes. The Superintendent or designee must post the information developed as a result of the policy evaluation on the District's website, or if a website is not available, the information must be provided to school administrators, Board members, school personnel, parents/guardians, and students.

12. The Superintendent or designee shall fully implement the Board policies, including without limitation, the following: <sup>12</sup>

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<sup>11</sup> 105 ILCS 5/27-23.7(b)(10), amended by P.A. 100-137.

<sup>12</sup> The statute requires that the bullying policy *be consistent with* other board policies. The list of policies may be deleted and the following alternative used: "12. The District's bullying prevention plan must be consistent with other Board policies." If a policy list is included, be sure the referenced policies were adopted locally and amend the list accordingly.

The bullying statute does not identify staff member duties regarding the prevention of or response to student bullying. The following optional provision addresses staff member responsibilities and may be added as a new paragraph 13:

13. The Superintendent or designee shall fully inform staff members of the District's goal to prevent students from engaging in bullying and the measures being used to accomplish it. This includes each of the following:
  - a. Communicating the District's expectation and State law requirement that teachers and other certificated or licensed employees maintain discipline.
  - b. Establishing the expectation that staff members: (1) intervene immediately to stop a bullying incident that they witness or immediately contact building security and/or law enforcement if the incident involves a weapon or other illegal activity, (2) report bullying, whether they witness it or not, to an administrator, and (3) inform the administration of locations on school grounds where additional supervision or monitoring may be needed to prevent bullying.
  - c. Where appropriate in the staff development program, providing strategies to staff members to effectively prevent bullying and intervene when it occurs.
  - d. Establishing a process for staff members to fulfill their obligation to report alleged acts of bullying.

- a. 2:260, *Uniform Grievance Procedure*. A student may use this policy to complain about bullying.
- b. 6:60, *Curriculum Content*. Bullying prevention and character instruction is provided in all grades in accordance with State law.
- c. 6:65, *Student Social and Emotional Development*. Student social and emotional development is incorporated into the District's educational program as required by State law.
- d. 6:235, *Access to Electronic Networks*. This policy states that the use of the District's electronic networks is limited to: (1) support of education and/or research, or (2) a legitimate business use.
- e. 7:20, *Harassment of Students Prohibited*. This policy prohibits *any* person from harassing, intimidating, or bullying a student based on an identified actual or perceived characteristic (the list of characteristics in 7:20 is the same as the list in this policy).
- f. 7:185, *Teen Dating Violence Prohibited*. This policy prohibits teen dating violence on school property, at school sponsored activities, and in vehicles used for school-provided transportation.
- g. 7:190, *Student Behavior*. This policy prohibits, and provides consequences for, hazing, bullying, or other aggressive behaviors, or urging other students to engage in such conduct.
- h. 7:310, *Restrictions on Publications; Elementary Schools*. This policy prohibits students from and provides consequences for: (1) accessing and/or distributing at school any written, printed, or electronic material, including material from the Internet, that will cause substantial disruption of the proper and orderly operation and discipline of the school or school activities, and (2) creating and/or distributing written, printed, or electronic material, including photographic material and blogs, that causes substantial disruption to school operations or interferes with the rights of other students or staff members.

LEGAL REF.: 405 ILCS 49/, Children's Mental Health Act.  
105 ILCS 5/10-20.14, 5/24-24, and 5/27-23.7.  
23 Ill.Admin.Code §1.240 and §1.280.

CROSS REF.: 2:240 (Board Policy Development), 2:260 (Uniform Grievance Procedure), 4:170 (Safety), 5:230 (Maintaining Student Discipline), 6:60 (Curriculum Content), 6:65 (Student Social and Emotional Development), 6:235 (Access to Electronic Networks), 7:20 (Harassment of Students Prohibited), 7:185 (Teen Dating Violence Prohibited), 7:190 (Student Behavior), 7:220 (Bus Conduct), 7:230 (Misconduct by Students with Disabilities), 7:240 (Conduct Code for Participants in Extracurricular Activities), 7:285 (Food Allergy Management Program), 7:310 (Restrictions on Publications; Elementary Schools)

## Students

### Student Support Services 1

The following student support services may be provided by the School District:<sup>2</sup>

1. Health services supervised by a qualified school nurse.<sup>3</sup> The Superintendent or designee may implement procedures to further a healthy school environment and prevent or reduce the spread of disease.
2. Educational and psychological testing services and the services of a school psychologist<sup>4</sup> as needed. In all cases, written permission to administer a psychological examination must be obtained from a student's parent(s)/guardian(s). The results will be given to the parent(s)/guardian(s), with interpretation, as well as to the appropriate professional staff.

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

<sup>2</sup> All districts are required to conduct a comprehensive needs assessment to determine the scope of student personnel services needs. ~~23 Ill.Admin.Code §1.420(q)~~.

P.A. 95-558 created the Ensuring Success in School Task Force. This task force developed recommendations for policies, procedures, and protocols for school boards to adopt to address the education and related needs of students who are parents, expectant parents, or victims of domestic or sexual violence. The intent of the recommendations is to ensure these student populations' ability to: (1) stay in school, (2) stay safe at school and (3) successfully complete their education. A copy of this report is ~~available~~—at: [povertylaw.org/advocacy/women/pubs/essa-task-force-report](http://povertylaw.org/advocacy/women/pubs/essa-task-force-report). School boards and superintendents may want to create their own study groups to discuss implementation of the task force's recommendations for policies, procedures and protocols.

<sup>3</sup> School districts may employ noncertificated/non-professional-educator-licensed *registered professional nurses* to perform professional nursing services. ~~105 ILCS 5/10-22.23; 23 Ill.Admin.Code §1.760(c)~~. A *registered professional nurse* means any nurse who is licensed to practice professional nursing in Illinois under the Nurse Practice Act (225 ILCS 65/) and whose license is active and in good standing with the Ill. Dept. of Financial and Professional Regulation. ~~23 Ill.Admin.Code §1.760(b)~~.

A *school nurse* means any registered professional nurse who also holds a professional educator license endorsed for school support services in school nursing, or any registered professional nurse who does not hold the professional educator license but was employed in the school district of current employment before 7-1-76. ~~23 Ill.Admin.Code §1.760(c)~~.

105 ILCS 5/10-22.23 provides that any nurse first employed on or after 7-1-76, whose duties require teaching or the exercise of instructional judgment or educational evaluation of students, must be ~~certificated~~/licensed under ~~Section 21-25~~ (105 ILCS 5/21-25). However, that ~~certification~~/licensure Section ~~5-21-25 of the School Code~~ was repealed by P.A. 98-413, eff. 8-16-13.

A school nurse may ~~be an educator licensed under~~ hold a Professional Educator License with a school support personnel endorsement. ~~105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§ 1.760(c), 23.120, 25.245~~. An individual who fails to meet one or more requirements for this endorsement may seek an educator license with stipulations endorsed for provisional educator. ~~105 ILCS 5/21B-20; 23 Ill.Admin.Code §25.245~~.

<sup>4</sup> School psychologists hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§ 1.760(a), 23.130, 25.235. An individual who fails to meet one or more requirements for this endorsement may seek an educator license with stipulations endorsed for provisional educator. 105 ILCS 5/21B-20; 23 Ill.Admin.Code §25.235.

3. The services of a school social worker.<sup>5</sup> A student's parent(s)/guardian(s) must consent to regular or continuing services from a social worker.
4. Guidance and school counseling<sup>6</sup> services.
5. A liaison to facilitate the enrollment and transfer of records of students in the legal custody of the Illinois Department of Children and Family Services when enrolling in or changing schools.<sup>7</sup>

The Superintendent or designee shall develop protocols for responding to students with social, emotional, or mental health problems that impact learning ability.<sup>8</sup> The District, however, assumes no liability for preventing, identifying, or treating such problems.

This policy shall be implemented in a manner consistent with State and federal laws, including the Individuals with Disabilities Education Act, 42 U.S.C. §12101 et seq.

LEGAL REF.: 405 ILCS 49/, Children's Mental Health Act of 2003.  
740 ILCS 110/, Mental Health and Developmental Disabilities Confidentiality Act.  
105 ILCS 5/10-20.58.

CROSS REF.: 6:65 (Student Social and Emotional Development), 6:270 (Guidance and Counseling Program), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students), 7:280 (Communicable and Chronic Infectious Diseases), 7:340 (Student Records)

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<sup>5</sup> A school social worker means a social worker who has graduated from an accredited graduate school of social work and has such additional qualifications as may be required by ISBE and who holds a Professional Educator License with a school support personnel endorsement for school social work per 105 ILCS 5/21B-25. 105 ILCS 5/14-1.09a. See 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§ 1.760(a), 23.140, 25.215. An individual who fails to meet one or more requirements for this endorsement may seek an educator license with stipulations endorsed for provisional educator. 105 ILCS 5/21B-20; 23 Ill.Admin.Code §25.215. School social workers may not provide services outside of their district employment to any student(s) attending school in the district. Id., amended by P.A. 100-356.

<sup>6</sup> School counselors hold a Professional Educator License with a school support personnel endorsement. 105 ILCS 5/21B-25(2)(G); 23 Ill.Admin.Code §§ 1.760(a), 23.110, 25.255. An individual who fails to meet one or more requirements for this endorsement may seek an educator license with stipulations endorsed for provisional educator. 105 ILCS 5/21B-20; 23 Ill.Admin.Code §25.225.

In contrast, professional counselors and professional counseling practice in Illinois are governed by the Professional Counselor and Clinical Professional Counselor Licensing and Practice Act and its implementing regulations. 225 ILCS 107/; 68 Ill.Admin.Code Part 1375. The Mental Health and Developmental Disabilities Code, 405 ILCS 5/, amended by P.A. 100-196, eff. 1-1-18, provides that minors 12 years of age or older may request and receive up to eight 90-minute sessions (previously five 45-minute sessions) of professional counseling services or psychotherapy (provided by a clinical psychologist) without the consent of the minor's parent, guardian, or person in loco parentis. 405 ILCS 5/3-501(a). Most school districts do not regularly provide professional counseling or clinical psychological services to students. Instead, most districts provide school counseling or school psychological services to students, and Illinois law does not specify any limits on the number of school counseling or school psychological sessions which a minor may have before obtaining parent/guardian permission. If your district seeks to regularly provide professional counseling or clinical psychological services to students, consult with your board attorney about potential changes to board policies and administrative procedures, as well as collective bargaining issues.

<sup>7</sup> Optional. 105 ILCS 5/10-20.58, added by P.A. 99-781, allows a liaison. Be sure this policy is consistent with policy 7:50, *School Admissions and Student Transfers To and From Non-District Schools*. See f/n 13 in 7:50, *School Admissions and Student Transfers To and From Non-District Schools*, for liaison responsibilities and requirements.

<sup>8</sup> Required by the Children's Mental Health Act of 2003, 405 ILCS 49/15.

## Students

### Exemption from Physical Education 1

In order to be excused from participation in physical education, a student must present an appropriate excuse from his or her parent/guardian or from a person licensed under the Medical Practice Act.<sup>2</sup> The excuse may be based on medical or religious prohibitions. An excuse because of medical reasons must include a signed statement from a person licensed under the Medical Practice Act that corroborates the medical reason for the request. An excuse based on religious reasons must include a signed statement from a member of the clergy that corroborates the religious reason for the request.<sup>3</sup>

Special activities in physical education will be provided for a student whose physical or emotional condition, as determined by a person licensed under the Medical Practice Act, prevents his or her participation in the physical education course.<sup>4</sup>

State law prohibits the Board from honoring parental excuses based upon a student's participation in athletic training, activities, or competitions conducted outside the auspices of the School District.<sup>5</sup>

A student who is eligible for special education may be excused from physical education courses in either of the following situations:<sup>6</sup>

1. He or she (a) is in grades 3-12, (b) his or her IEP requires that special education support and services be provided during physical education time, and (c) the parent/guardian agrees or the IEP team makes the determination; or
2. He or she (a) has an IEP, (b) is participating in an adaptive athletic program outside of the school setting, and (c) the parent/guardian documents the student's participation as required by the Superintendent or designee.

A student requiring adapted physical education must receive that service in accordance with his or her Individualized Educational Program/Plan (IEP).<sup>7</sup>

A student in grades 9-12, unless otherwise stated, may submit a written request to the Building Principal to be excused from physical education courses for the reasons stated in 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students*.<sup>8</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> An ISBE rule requires boards to have a policy defining the types of parental excuses that will be accepted in order for a student to be exempted from P.E. (~~23 Ill.Admin.Code §1.425(e), (added at 40 Ill. Reg. 2990)~~). State or federal law controls this policy's content.

For elementary districts, delete ~~6:310, High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students~~ from the cross references of this policy.

<sup>2</sup> Medical Practice Act is found in 225 ILCS 60/.

<sup>3</sup> Required by 23 Ill.Admin.Code §1.425(e)(3). School boards must identify any evidence/support they will require for excuses they will deem *appropriate*. Before the board adopts this policy, it should have a conversation with the superintendent to discuss and review and/or amend the sample reasons for excusal offered in this policy. Topics for discussion include determining whether (a) the sample reasons are sufficient, (b) more reasons are needed, and/or (c) the sample reasons should be amended. These conversations should be based upon the community's needs.

<sup>4</sup> Required by 105 ILCS 5/27-6, amended by P.A. 100-465, and 23 Ill.Admin.Code §1.425(d).

<sup>5</sup> 105 ILCS 5/27-6(b); 23 Ill.Admin.Code §1.425(e)(2). See ~~policy~~ 6:310, *High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students* for a list of categories of students in grades 9-12 who may be excused from P.E. due to participation in school district athletic training, activities, or competitions.

<sup>6</sup> 105 ILCS 5/27-6(b).

<sup>7</sup> 105 ILCS 5/27-6(b).

Students in grades 7 and 8 may submit a written request to the Building Principal to be excused from physical education courses because of his or her ongoing participation in an interscholastic or extracurricular athletic program.<sup>9</sup> The Building Principal will evaluate requests on a case-by-case basis.

The Superintendent or designee shall maintain records showing that the criteria set forth in this policy were applied to the student's individual circumstances, as appropriate. **10**

LEGAL REF.: 105 ILCS 5/27-6.  
225 ILCS 60/, Medical Practice Act.  
23 Ill.Admin.Code §1.420(p) and §1.425(d), (e), (f).

CROSS REF.: 6:60 (Curriculum Content), 6:310 (High School Credit for Non-District Experiences; Course Substitutions; Re-Entering Students)

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**8** 105 5/27-6, amended by P.A. 100-465. Delete this sentence for elementary school districts.

**9** 105 5/27-6, amended by P.A. 100-465. Delete this paragraph for high school districts. Prior to P.A. 100-465, the statute only allowed students in grades 11 and 12 to be excused from P.E. "for ongoing participation in an interscholastic athletic program." 105 ILCS 5/27-6(b)(1).105 ILCS 5/27-6(b), amended by P.A. 100-465, now states "on a case-by-case basis, excuse pupils in grades 7 through 12 who participate in an interscholastic or extracurricular athletic program." It does not require such participation to be *ongoing*. Common sense, however, would allow the exemption to continue only until the end of the grading period during which the athletic program is active.

State law does not define *interscholastic athletic program* or *extracurricular athletic program*; however, 105 ILCS 5/22-80 defines *interscholastic athletic activity* as "any organized school-sponsored or school-sanctioned activity for students, generally outside of school instructional hours, under the direction of a coach, athletic director, or band leader, including, but not limited to, baseball, basketball, cheerleading, cross country track, fencing, field hockey, football, golf, gymnastics, ice hockey, lacrosse, marching band, rugby, soccer, skating, softball, swimming and diving, tennis, track (indoor and outdoor), ultimate Frisbee, volleyball, water polo, and wrestling."

For elementary school boards that want to explain the meaning of *interscholastic or extracurricular athletic program*, insert the following option:

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

**10** 23 Ill.Admin.Code §1.425(f). Districts must maintain records showing that the criteria set forth in 105 ILCS 5/27-6, amended by P.A. 100-465, was applied to the student's individual circumstances.

## Students

### Administering Medicines to Students <sup>1</sup>

Students should not take medication during school hours or during school-related activities unless it is necessary for a student's health and well-being. When a student's licensed health care provider and parent/guardian believe that it is necessary for the student to take a medication during school hours or school-related activities, the parent/guardian must request that the school dispense the medication to the child and otherwise follow the District's procedures on dispensing medication.

No School District employee shall administer to any student, or supervise a student's self-administration of, any prescription or non-prescription medication until a completed and signed "*School Medication Authorization Form*"<sup>2</sup> is submitted by the student's parent/guardian. No student shall possess or consume any prescription or non-prescription medication on school grounds or at a school-related function other than as provided for in this policy and its implementing procedures.

Nothing in this policy shall prohibit any school employee from providing emergency assistance to students, including administering medication.

The Building Principal shall include this policy in the Student Handbook and shall provide a copy to the parents/guardians of students.<sup>2</sup>

### Self-Administration of Medication <sup>3</sup>

A student may possess an epinephrine auto-injector, e.g., EpiPen®, and/or asthma medication prescribed for use at the student's discretion, provided the student's parent/guardian has completed and signed a *School Medication Authorization Form*. The School District shall incur no liability, except for willful and wanton conduct, as a result of any injury arising from a student's self-administration of medication or epinephrine auto-injector or the storage of any medication by school personnel.<sup>4</sup> A student's parent/guardian must indemnify and hold harmless the School District and its employees and agents, against any claims, except a claim based on willful and wanton conduct,

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<sup>1</sup> All districts must have a policy for administering medication. (105 ILCS 5/10-20.14b). State law prohibits school boards from requiring that teachers and other non-administrative school employees administer medication to students; exceptions are certificated school nurses and non-certificated registered professional nurses. (105 ILCS 5/10-22.21b).

<sup>2</sup> Each district must inform students (e.g., through homeroom discussion or loudspeaker announcement) about, and distribute to their parents/guardians, the district's policy, guidelines, and forms on administering medicines within 15 days after the beginning of each school year, or within 15 days after starting classes for a student who transfers into the district. (105 ILCS 5/10-20.14b). A comprehensive Student Handbook can provide notice to parents and students of the school's rules, extracurricular and athletic participation requirements, and other important information. The Handbook can be developed by the building principal, but should be reviewed and approved by the superintendent and board. [The Illinois Principals Association maintains a handbook service that coordinates with PRESS material. Online Model Student Handbook \(MSH\), at: www.ilprincipals.org/resources/model-student-handbook.](http://www.ilprincipals.org/resources/model-student-handbook)

<sup>3</sup> 105 ILCS 5/22-30, requires school districts to allow students to *self-administer* their prescribed asthma medication and an epinephrine auto-injector as described. *Self-carry* means a student's ability to carry his or her prescribed asthma medication or epinephrine auto-injector. *Self-administer* and *self-administration* mean that a student may use these two medications at his or her discretion: (1) while in school, (2) while at a school sponsored activity, (3) while under the supervision of school personnel, or (4) before or after normal school activities, such as while in before-school or after-school care on school-operated property.

<sup>4</sup> 105 ILCS 5/22-30(c) requires this information to be in a notification to parents.

arising out of a student's self-administration of an epinephrine auto-injector and/or medication, or the storage of any medication by school personnel.<sup>5</sup>

### School District Supply of Undesignated Epinephrine Auto-Injectors <sup>6</sup>

The Superintendent or designee shall implement Section 22-30(f) of the School Code and maintain a supply of undesignated epinephrine auto-injectors in the name of the District and provide or administer them as necessary according to State law. *Undesignated epinephrine auto-injector* means an epinephrine auto-injector prescribed in the name of the District or one of its schools. A school nurse or trained personnel, as defined in State law,<sup>7</sup> may administer an undesignated epinephrine auto-injector to a person when they, in good faith, believe a person is having an anaphylactic reaction. Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law.<sup>8</sup>

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<sup>5</sup> 105 ILCS 5/22-30(c) requires parents/guardians to sign a statement: (1) acknowledging the statement from f/n 4 above, and (2) that they must indemnify and hold harmless the school district and its employees and agents against any claims, except a claim based on willful and wanton conduct, arising out of the self-administration of medication by the student or the storage of the medication by school personnel. There are several methods to obtain a parent/guardian's signature for this purpose, e.g., receipt of handbook signature, or see 7:270 E, *School Medication Authorization Form*. Discuss with the board attorney the method that works best for the district.

<sup>6</sup> Optional. A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30, amended by P.A. 99-711, ~~eff. 1-1-17~~. The law permits a district to maintain a supply of undesignated epinephrine auto-injectors in any secure location that is accessible before, during, and after school where an allergic person is most at risk, including, but not limited to, classrooms and lunchrooms, and use them when necessary. The P.A. 99-711 amendment requiring accessibility before, during, and after school does not address the logistical issues that classrooms are typically locked before and after school. Consult the board attorney about the implementation issues with this new phrase in the law.

Consult the board attorney about the consequences of informing the community that the district will obtain a prescription for a supply of undesignated epinephrine auto-injectors and implement a plan for their use, and then not doing it may be fraught with legal liabilities. Also fraught with legal liabilities is if the district is providing them, not having them accessible before, during, and after school where an allergic person is most at risk as required by P.A. 99-711, ~~eff. 1-1-17~~. See In re: Estate of Stewart v. Oswego Comm. Unit. Sch. Dist. No. 308, 406 Ill.Dec. 345—N.E. 3d—(Ill. App. 2, 2nd Dist. 2016)(denying tort immunity to district, finding its response to a student's asthma attack was *willful and wanton* (which district disputed as a possible heart attack); In re Estate of Stewart, 412 Ill.Dec. 914 (Ill. 2017)(school district's appeal denied).

The superintendent is given broad authority to implement this section; however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of undesignated epinephrine auto-injectors in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

<sup>7</sup> State law defines *trained personnel* as any school employee or volunteer personnel authorized in Sections 10-22.34, 10-22.34a, and 10-22.34b of this Code who has completed training to recognize and respond to anaphylaxis, ~~(105 ILCS 5/22-30(a))~~. ISBE must develop the training curriculum for trained personnel, and it may be conducted online or in person, ~~(Id. at (h) and 23 Ill.Admin.Code §1.540(e)(3))~~. P.A. 99-480 did not amend the trained personnel to include recognition and response to an opioid overdose. However, 105 ILCS 5/22-30(h-5), amended by P.A. 99-480 and 23 Ill.Admin.Code §1.540(e)(4) list the training curriculum requirements to recognize and respond to an opioid overdose.

<sup>8</sup> 23 Ill.Admin.Code §1.540(e)(7)&(8).



### School District Supply of Undesignated Opioid Antagonists<sup>9</sup>

The Superintendent or designee shall implement Section 22-30(f) of the School Code and maintain a supply of undesignated opioid antagonists in the name of the District and provide or administer them as necessary according to State law. *Opioid antagonist* means a drug that binds to opioid receptors and blocks or inhibits the effect of opioids acting on those receptors, including, but not limited to, naloxone hydrochloride or any other similarly acting drug approved by the U.S. Food and Drug Administration. *Undesignated opioid antagonist* is not defined by the School Code; for purposes of this policy it means an opioid antagonist prescribed in the name of the District or one of its schools. A school nurse or trained personnel,<sup>10</sup> as defined in State law, may administer an undesignated opioid antagonist to a person when they, in good faith, believe a person is having an opioid overdose. Each building administrator and/or his or her corresponding school nurse shall maintain the names of trained personnel who have received a statement of certification pursuant to State law.<sup>11</sup> On or after June 1, 2018, see the website for the Ill. Dept. of Human Services for information about opioid prevention, abuse, public awareness, and a toll-free number to provide information and referral services for persons with questions concerning substance abuse treatment.<sup>12</sup>

### Void Policy; Disclaimer<sup>13</sup>

The **School District Supply of Undesignated Epinephrine Auto-Injectors** section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for undesignated epinephrine auto-injectors from a physician or advanced practice nurse licensed to practice medicine in all its branches, or (2) fill the District's prescription for undesignated school epinephrine auto-injectors.<sup>14</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>9</sup> Optional. If the board chooses to implement an undesignated opioid antagonist program, and the district employs law enforcement, consult the board attorney about whether this subhead becomes required. See Alcoholism and Other Drug Abuse and Dependency Act, ~~20 ILCS 301/~~, amended by P.A. 100-201.

For boards that choose to implement an undesignated opioid antagonists program, consult the board attorney regarding the Safe and Drug-Free School and Communities Act of 1994, ~~20 U.S.C. §7101(b)~~. It prohibits funds provided under it to be used for medical services or drug treatment or rehabilitation, except for integrated student supports, specialized instructional support services, or referral to treatment for impacted students, which may include students who are victims of, or witnesses to crime or who illegally use drugs.

A school board must ensure that it does not adopt this section into the policy unless it is prepared to implement 105 ILCS 5/22-30(h-5), amended by P.A. 99-480. The law permits a district to maintain a supply of undesignated opioid antagonists in any secure location where a person is at risk of an opioid overdose and use them when necessary. The consequences of informing the community that the district will obtain a prescription for a supply of opioid antagonists and implement a plan for their use, and then not doing it may be fraught with legal liabilities.

The superintendent is given broad authority to implement this section; however, several preliminary steps should occur with the assistance of the board attorney. They include, but are not limited to: (1) investigating the feasibility of obtaining a prescription for a supply of opioid antagonists in the name of the district or one of its schools, and (2) outlining the advantages and disadvantages of implementing this plan based upon each district's individual resources and circumstances, and student population's needs.

<sup>10</sup> See the discussion regarding *trained personnel* in f/n 7, above.

<sup>11</sup> See f/n 8, above.

<sup>12</sup> Optional sentence if the board chooses to implement an undesignated opioid antagonist program as discussed in f/n 9, above. 20 ILCS 301/20-30, added by P.A. 100-494, eff. 6-1-18, mandates the Ill. Dept. of Human Services to create a website with these resources. The purpose of this sentence is to provide the community with information about a public health crisis affecting students.

<sup>13</sup> Remove this section if the board does not adopt the undesignated epinephrine auto-injector or the undesignated opioid antagonist sections of the policy. If the board adopts one or the other, delete the appropriate paragraph in this section.

<sup>14</sup> Discuss with the board attorney whether the board should remove this sentence when the district reaches full implementation of this section.

The **School District Supply of Undesignated Opioid Antagonists** section of the policy is void whenever the Superintendent or designee is, for whatever reason, unable to: (1) obtain for the District a prescription for opioid antagonists from a health care professional<sup>15</sup> who has been delegated prescriptive authority for opioid antagonists in accordance with Section 5-23 of the Alcoholism and Other Drug Abuse and Dependency Act, or (2) fill the District's prescription for undesignated school opioid antagonists.<sup>16</sup>

Upon any administration of an undesignated epinephrine auto-injector or an opioid antagonist, the Superintendent or designee(s) must ensure all notifications required by State law and administrative procedures occur.<sup>17</sup>

Upon implementation of this policy, the protections from liability and hold harmless provisions as explained in Section 22-30(c) of the School Code apply.

No one, including without limitation parents/guardians of students, should rely on the District for the availability of an epinephrine auto-injector and/or opioid antagonist. This policy does not guarantee the availability of an epinephrine auto-injector and/or opioid antagonist; students and their parents/guardians should consult their own physician regarding such medication(s).

LEGAL REF.: 105 ILCS 5/10-20.14b, 5/10-22.21b, and 5/22-30.  
23 Ill.Admin.Code §1.540.

CROSS REF.: 7:285 (Food Allergy Management)

ADMIN. PROC.: 7:270-AP1 (Dispensing Medication), 7:270-AP2 (Checklist for District Supply of Undesignated Epinephrine Auto-Injectors and/or Opioid Antagonists), 7:270-E (School Medication Authorization Form)

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<sup>15</sup> *Health care professional* means a physician licensed to practice medicine in all its branches, a licensed physician assistant with prescriptive authority, a licensed advanced practice registered nurse with prescriptive authority, or an advanced practice registered nurse who practices in a hospital or ambulatory surgical treatment center and possesses appropriate clinical privileges in accordance with the Nurse Practice Act, (20 ILCS 301/5-23(d)(4), amended by P.A.s 99-173, ~~and~~ 99-480, 100-201, and 100-513).

<sup>16</sup> See f/n 13 above.

<sup>17</sup> 105 ILCS 5/22-30, amended by P.A. 99-480 details specific required notifications, which are listed in 7:270-AP2, *Checklist for District Supply of Undesignated Epinephrine Auto-Injectors and/or Opioid Antagonists*.

## Students

### Student Athlete Concussions and Head Injuries <sup>1</sup>

The Superintendent or designee shall develop and implement a program to manage concussions and head injuries suffered by students. The program shall:

1. Fully implement the Youth Sports Concussion Safety Act, that provides, without limitation, each of the following: <sup>2</sup>
  - a. The Board must appoint or approve member(s) of a Concussion Oversight Team for the District. <sup>3</sup>
  - b. The Concussion Oversight Team shall establish each of the following based on peer-reviewed scientific evidence consistent with guidelines from the Centers for Disease Control and Prevention: <sup>4</sup>

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<sup>1</sup> Three Illinois statutes in the School Code have addressed student concussions:

- (1) The Youth Sports Concussion Safety Act, 105 ILCS 5/22-80, added by P.A. 99-245; trailer legislation (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year. The Act contains concussion safety directives for school boards and certain identified staff members. A school district must implement Sec. 22-80 if it offers interscholastic athletic activities or interscholastic athletics under the direction of a coach (volunteer or school employee), athletic director, or band leader. A school district may need to implement its return-to-learn protocol for a student's return to the classroom after he or she is believed to have experienced a concussion, "whether or not the concussion took place while the student was participating in an interscholastic activity." 105 ILCS 5/22-80(d). For a comprehensive discussion of this Act, see the IASB publication [Checklist for Youth Sports Concussion Safety Act](#); at: [iasb.com/law/](http://iasb.com/law/). Helpful guidance for implementing this law is available from the Lurie Children's Hospital's *A Guide for Teachers and School Professionals*.
- (2) 105 ILCS 25/1.15, ~~added by P.A. 98-1011~~, requires: (a) all high school coaching personnel to complete online concussion awareness training, and (b) all student athletes to view the IHSA video about concussions.
- (3) 105 ILCS 25/1.20, added by P.A. 99-831, requires the IHSA to require all member districts that have certified athletic trainers to have those trainers complete and submit a monthly report on student-athletes who have sustained a concussion during: 1) a school-sponsored activity overseen by the athletic trainer; or 2) a school-sponsored event of which the athletic director is made aware.

The Center for Disease Control and Prevention explains that a concussion is a type of traumatic brain injury caused by a bump, blow, or jolt to the head, or by a hit to the body that causes the head and brain to move rapidly back and forth. See [www.cdc.gov/headsup/index.html](http://www.cdc.gov/headsup/index.html). The CDC website contains excellent resources for the recognition, response, and prevention of concussions, including the opportunity to order or download free educational materials on concussions that can be distributed to parents, students, and coaches.

<sup>2</sup> 105 ILCS 5/22-80, added by P.A. 99-245; ~~trailer legislation (amended by P.A.s 99-486 and 100-309) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~

<sup>3</sup> 105 ILCS 5/22-80(d), added by P.A. 99-245; ~~trailer legislation (amended by P.A.s 99-486 and 100-309) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~ A physician, to the extent possible, must be on the Team. If the school employs an athletic trainer and/or nurse, they must be on the Team to the extent practicable. The Team must include, at a minimum, one person who is responsible for implementing and complying with the return-to-play and return-to-learn protocols adopted by the Team. Other licensed health care professionals may be appointed to serve on the Team. The statute provides that the Team may be composed of only one person who need not be a licensed healthcare professional, however, that person may not be a coach. Id.

As this is administrative/staff work rather than governance work, the best practice is to have the Concussion Oversight Team be an *administrative* committee, but consult the board attorney for guidance. If it is a board committee, it must comply with the Open Meetings Act, 5 ILCS 120/1.02. For a discussion of the Open Meetings Act's treatment of committees, see the footnotes in 2:150, *Committees*.

<sup>4</sup> 105 ILCS 5/22-80(d), ~~added by P.A. 99-245; trailer legislation (amended by P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~

- i. A return-to-play protocol governing a student’s return to interscholastic athletics practice or competition following a force of impact believed to have caused a concussion. The Superintendent or designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play protocol. <sup>5</sup>
- ii. A return-to-learn protocol governing a student’s return to the classroom following a force of impact believed to have caused a concussion. The Superintendent or designee shall supervise the person responsible for compliance with the return-to-learn protocol. <sup>6</sup>
- c. Each student and the student’s parent/guardian shall be required to sign a concussion information receipt form each school year before participating in an interscholastic athletic activity. <sup>7</sup>
- d. A student shall be removed from an interscholastic athletic practice or competition immediately if any of the following individuals believes that the student sustained a concussion during the practice and/or competition: a coach, a physician, a game official,

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<sup>5</sup> The Youth Sports Concussion Safety Act contains requirements for a student to return to play following a concussion ~~(Id.)~~. ~~The supervisor of the person responsible for compliance with the return-to-play protocol may not be a coach.~~ The student’s treating physician, physician assistant, advanced practice registered nurse, or an athletic trainer working under a physician’s supervision must evaluate and find that it is safe for the student to return to play. The student’s parent/guardian must sign a consent form that complies with statutory prerequisites. In addition, the student must also complete the requirements in the district’s return-to-play and return-to-learn protocols. Thus, the district through its protocols may add requirements for the student’s return, but may not delete any statutory requirements.

It is an open question whether the return-to-play protocol is limited to when the concussion occurred during an interscholastic athletic activity because the statute does not state “whether or not the concussion took place while the student was participating in an interscholastic athletic activity.” It makes sense, however, to apply the return-to-play protocol whenever a student suffers a concussion before allowing him or her to participate in an interscholastic athletic activity. See IHSA’s website contains a form for this, Post-concussion Consent Form (RTP/RTL); at: [ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx](https://ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx)

<sup>6</sup> 105 ILCS 5/22-80(g), added by P.A. 99-245; ~~trailer legislation amended by P.A.s 99-486 and 100-309) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~ ~~The supervisor of the person responsible for compliance with the return-to-learn protocol may not be a coach.~~ The return-to-learn protocol governs a student’s return to the classroom after a concussion, whether or not the concussion took place while the student was participating in an interscholastic athletic activity. Guidance from Lurie Children’s Hospital explains that recovery from a concussion must be an individualized process because no two concussions are the same. See *Return to Learn after a Concussion: A Guide for Teachers and School Professionals*, Lurie Children’s Hospital. This *Guide* explains that a student’s full recovery depends on both cognitive rest and physical rest. It suggests using a multidisciplinary team to facilitate a student’s return to the classroom and provides examples of accommodations and interventions. It also stresses the importance of identifying a school staff member who will function as a case manager or concussion management leader, such as a school nurse, athletic trainer, or school counselor. See IHSA’s website contains a form for this, Post-concussion Consent Form (RTP/RTL); at: [ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx](https://ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx).

<sup>7</sup> 105 ILCS 5/22-80(e), added by P.A. 99-245; ~~trailer legislation (amended by P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~ *Interscholastic athletic activity* is defined in Section 22-80(a) as “any organized school-sponsored or school-sanctioned activity for students, generally outside of school instructional hours, under the direction of a coach, athletic director, or band leader, including, but not limited to, baseball, basketball, cheerleading, cross country track, fencing, field hockey, football, golf, gymnastics, ice hockey, lacrosse, marching band, rugby, soccer, skating, softball, swimming and diving, tennis, track (indoor and outdoor), ultimate Frisbee, volleyball, water polo, and wrestling. The form must be approved by the Illinois High School Association (IHSA). See [ihsa.org/Resources/SportsMedicine/ConcussionManagement/5ConcussionResources.aspx](https://ihsa.org/Resources/SportsMedicine/ConcussionManagement/5ConcussionResources.aspx), ~~generally—and specifically for~~ *IHSA Concussion Protocols* and *IHSA Sports Medicine Acknowledgement & Consent Form* (Concussion, PES, Asthma Medication).

an athletic trainer, the student's parent/guardian, the student, or any other person deemed appropriate under the return-to-play protocol. <sup>8</sup>

- e. A student who was removed from interscholastic athletic practice or competition shall be allowed to return only after all statutory prerequisites are completed, including without limitation, the return-to-play and return-to-learn protocols developed by the Concussion Oversight Team. An athletic team coach or assistant coach may not authorize a student's return-to-play or return-to-learn. <sup>9</sup>
  - f. The following individuals must complete concussion training as specified in the Youth Sports Concussion Safety Act: all coaches or assistant coaches (whether volunteer or a district employee) of interscholastic athletic activities; nurses, licensed healthcare professionals or non-licensed healthcare professionals who serve on the Concussion Oversight Team (whether or not they serve on a volunteer basis); athletic trainers; game officials of interscholastic athletic activities; and physicians who serve on the Concussion Oversight Team. <sup>10</sup>
  - g. The Board shall approve school-specific emergency action plans for interscholastic athletic activities to address the serious injuries and acute medical conditions in which a student's condition may deteriorate rapidly. <sup>11</sup>
2. Comply with the concussion protocols, policies, and by-laws of the Illinois High School Association, including its *Protocol for Implementation of NFHS Sports Playing Rules for Concussion*, which includes its *Return to Play (RTP) Policy*.<sup>12</sup> These specifically require that:

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<sup>8</sup> 105 ILCS 5/22-80(f), added by P.A. 99-245; ~~trailer legislation amended by (P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~

<sup>9</sup> 105 ILCS 5/22-80(g), added by P.A. 99-245; ~~amended by trailer legislation (P.A. 99-486 and 100-309) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~ Most students with a concussion will not need a formal 504 plan or individualized education program; contact the board attorney whenever one is requested or the student's symptoms are prolonged.

<sup>10</sup> 105 ILCS 5/22-80(h), added by P.A. 99-245; ~~trailer legislation amended by (P.A. 99-486 and 100-309) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~ Individuals covered by this training mandate must ~~initially complete the~~ take a training course from an authorized training provider prior to serving on a Concussion Oversight Team (Team) and at least once every two years (or if not serving on the Team, at least once every two years), by 9-1-2016. See the footnotes in ~~policy 5:100, Staff Development Program. Physicians on Teams are required, to the greatest extent practicable, to periodically take an appropriate medical course on concussions. 105 ILCS 5/22-80(h)(3).~~

Note: Licensed healthcare professionals includes nurses and licensed clinical psychologists, physical therapists, occupational therapists, physicians' assistants, and athletic trainers working under the supervision of a physician. 105 ILCS 5/22-80(b). Non-licensed healthcare professionals is not specifically defined. Therefore, it is not entirely clear if a Team may include an individual, i.e., a building principal that is not mandated to take the training. As a matter of best practice and to reduce liability, all Team members should receive the training; however, consult with the board attorney for further guidance.

<sup>11</sup> 105 ILCS 5/22-80(i), added by P.A. 99-245; ~~trailer legislation (amended by P.A. 99-486) amended the Act to delay the compliance deadline until the beginning of the 2016-2017 school year.~~ A template is available on the IHSA website under *Emergency Action Plan (EAP) Resources* at: [ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx](http://ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx).

<sup>12</sup> The *Protocol for Implementation of NFHS Sports Playing Rules for Concussion* (<http://ihsa.org/documents/sportsMedicine/Concussion%20Protocols.pdf>) contains concussion information, provides instructions when a student athlete sustains an apparent concussion, and includes a *Return to Play (RTP) Policy*. The *Return to Play (RTP) Policy* addresses the requirements for returning a student athlete to play after he or she exhibits signs, symptoms, or behaviors of a concussion.

- a. A student athlete who exhibits signs, symptoms, or behaviors consistent with a concussion in a practice or game shall be removed from participation or competition at that time.
  - b. A student athlete who has been removed from an interscholastic contest for a possible concussion or head injury may not return to that contest unless cleared to do so by a physician licensed to practice medicine in all its branches in Illinois or a certified athletic trainer.
  - c. If not cleared to return to that contest, a student athlete may not return to play or practice until the student athlete has provided his or her school with written clearance from a physician licensed to practice medicine in all its branches in Illinois, advanced practice registered nurse, physician assistant or a certified athletic trainer working in conjunction with a physician licensed to practice medicine in all its branches in Illinois. **13**
3. Require that all high school coaching personnel, including the head and assistant coaches, and athletic directors obtain online concussion certification by completing online concussion awareness training in accordance with 105 ILCS 25/1.15. **14**
  4. Require all student athletes to view the Illinois High School Association's video about concussions. **15**
  5. Inform student athletes and their parents/guardians about this policy in the *Agreement to Participate* or other written instrument that a student athlete and his or her parent/guardian must sign before the student is allowed to participate in a practice or interscholastic competition. **16**
  6. Provide coaches and student athletes and their parents/guardians with educational materials from the Illinois High School Association regarding the nature and risk of concussions and head injuries, including the risks inherent in continuing to play after a concussion or head injury. **17**
  7. Include a requirement for staff members to notify the parent/guardian of a student who exhibits symptoms consistent with that of a concussion. **18**

*[For high school districts that belong to the IHSA and have certified athletic trainers.]*

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**13** 105 ILCS 5/22-80(g)(4), amended by P.A. 100-309 and 225 ILCS 65/20-10, amended by P.A. 100-513, P.A. 100-513 amended the Nurse Practice Act to add *registered* to the definition of *advanced practice registered nurse*; accordingly, this policy reflects that change in terminology, even though Section 22-80 was not similarly amended.

**14** 105 ILCS 25/1.15(b), ~~added by P.A. 98-1011~~, requires high school coaching personnel and athletic directors hired before 8-18-2014 to have been certified by 8-19-2015. Coaching personnel and athletic directors hired on or after 8-19-2014 must be certified before the starting date of their position.

**15** 105 ILCS 25/1.15(e), ~~added by P.A. 98-1011~~.

**16** Required by 23 Ill.Admin.Code §1.530(b). IHSA drafted a sample *Concussion Information Sheet*, which is included within the *IHSA Sports Medicine Acknowledgement & Consent Form* and has been incorporated into 7:300-E1, *Agreement to Participate*. ~~It can be used to inform student athletes and parents, and it is available at~~ [Sec: ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx](http://ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx).

An ISBE rule defines *health-related information* to include a concussion policy acknowledgment (23 Ill.Admin.Code §375.10). The acknowledgment, therefore, must be kept with the student's school student records as a temporary record. (23 Ill.Admin.Code §375.40).

**17** IHSA has produced educational materials on concussions for coaches, parents/guardians, student athletes, and the school and health care providers on concussions. ~~See that are available at:~~ [ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx](http://ihsa.org/Resources/SportsMedicine/ConcussionManagement/ConcussionResources.aspx).

**18** This provision is optional.

8. Include a requirement for certified athletic trainers to complete and submit a monthly report to the Illinois High School Association on student-athletes who have sustained a concussion during: 1) a school-sponsored activity overseen by the athletic trainer; or 2) a school-sponsored event of which the athletic director is made aware.<sup>19</sup>

LEGAL REF.: 105 ILCS 5/22-80.  
105 ILCS 25/1.15.

CROSS REF.: 4:170 (Safety), [5:100 \(Staff Development Program\)](#), 7:300 (Extracurricular Athletics)

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<sup>19</sup> Required by 105 ILCS 25/1.20, added by P.A. 99-831, for high school districts that belong to the IHSA and have certified athletic trainers.