

School Board

Vacancies on the School Board - Filling Vacancies ¹

Vacancy

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

1. Death of the incumbent,
2. Resignation in writing filed with the Secretary of the Board,
3. Legal disability, ³
4. Conviction of a felony, bribery, perjury, or other infamous crime or of any offense involving a violation of official oath or of a violent crime against a child, ⁴
5. Removal from office,
6. The decision of a competent tribunal declaring his or her election void, ⁵
7. Ceasing to be an inhabitant of the District or a particular area from which he or she was elected, if the residential requirements contained in the School Code are violated,
8. An illegal conflict of interest, ⁶ or

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¹ State law controls this policy's content. A helpful publication is on the IASB website, *Vacancies on the Board of Education*, published by the Ill. Council of School Attorneys (ICSA), available at: www.iasb.com/law/vacancies.cfm.

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

³ *Id.* *Legal disability* is not defined, but must be interpreted consistently with other laws, e.g., laws prohibiting discrimination on the basis of a disability. A similar statute regarding the occurrence of vacancies on the State Board of Education provides guidance. It states that a vacancy occurs when: "a member is adjudicated to be a person under legal disability under the Probate Act of 1975, ~~as amended~~, or a person subject to involuntary admission under the Mental Health and Developmental Disabilities Code." 105 ILCS 5/1A-2.1.

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

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

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

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

9. Acceptance of a second public office that is incompatible with Board membership. ⁷

Filling Vacancies ⁸

Whenever a vacancy occurs, the remaining members shall notify the Regional Superintendent of Schools of that vacancy within five days after its occurrence and shall fill the vacancy until the next regular board election, at which election a successor shall be elected to serve the remainder of the unexpired term. However, if the vacancy occurs with less than 868 days remaining in the term or less than 88 days before the next regularly scheduled election, the person so appointed shall serve the remainder of the unexpired term, and no election to fill the vacancy shall be held. Members appointed by the remaining members of the Board to fill vacancies shall meet any residential requirements as specified in the School Code. The Board shall fill the vacancy within 60 days after it occurred by a public vote at a meeting of the Board.

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

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⁷ An individual may not ~~hold~~ simultaneously hold two offices that are incompatible; acceptance of the second office is a constructive resignation of the first office (Ill. Constitution, Art. IV, Sec. 2(e), and Art. VI, Sec. 13(b)). The offices of alderman, school board member, and park district commissioner are incompatible. People ex. Rel. Alvarez v. Price, 408 Ill.App.3d 457 (1st Dist. 2011). The court found that offices can be incompatible absent an actual conflict; the eventuality of a conflict is enough. See People v. Wilson, 357 Ill.App.3d 204 (3rd Dist. 2005)(simultaneously holding offices as a county board member and a school board member violates the Public Officer Prohibited Activities Act; this legislation prohibits a county board member from holding a second office). For more information on incompatible offices, see the FAQ referenced in f/n 6.

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

⁸ This paragraph restates the requirements in 105 ILCS 5/10-10, ~~amended by P.A. 101-67, eff. 1-1-20~~. If the board fails to act within 60 days after the vacancy occurs, the regional superintendent, under whose supervision and control the district is operating, must then fill the vacancy within 30 days. Id.

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

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

Questions arise when fewer individuals run for seats on the board than are up for election. 105 ILCS 5/10-11 partially addresses this issue; it states “no elective office...becomes vacant until the successor of the incumbent of such office has been appointed or elected, as the case may be, and qualified.” Id. A board with potential *holdover* incumbent members should seek advice from the board attorney regarding (1) how long the seat can be held over by the incumbent member, and (2) the process by which the Board should fill the seat.

Use this alternative for districts in suburban Cook County: replace “Regional Superintendent” with “appropriate Intermediate Service Center Executive Director.”

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

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

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

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

DRAFT

School Board

Board Member Compensation; Expenses ¹

Board Member Compensation Prohibited ²

School Board members provide volunteer service to the community and may not receive compensation for services, except that a Board member serving as the Board Secretary may be paid an amount up to the statutory limit if the Board so provides.

Roll Call Vote ³

All Board member expense requests for travel, meals, and/or lodging must be approved by roll call vote at an open meeting of the Board.

Regulation of School District Expenses ⁴

The Board regulates the reimbursement of all travel, meal, and lodging expenses in the District by resolution.⁵ No later than approval of the annual budget and when necessary,⁶ the Superintendent will

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¹ State law controls this policy's content (105 ILCS 5/10-9, 5/10-10 and 5/22-1 (no compensation allowed, conflicts of interest prohibited); 105 ILCS 5/10-22.32 (expense advancements); the Local Government Travel Expense Control Act (ECA), 50 ILCS 150/10 (regulation of travel expenses); and the Grant Accountability and Transparency Act, 30 ILCS 708/130 (regulation of travel expenses under grants)).

² The legal limit for board secretary compensation is \$500 per year. 105 ILCS 5/10-14.

³ 50 ILCS 150/15. 105 ILCS 5/10-7 also states, "[o]n all questions involving the expenditure of money, the yeas and nays shall be taken and entered on the records of the proceedings of the board," i.e., a *roll call vote*.

Although the School Code has always required a roll call vote on public expenditures, the ECA requires a roll call vote for any:

1. Officer or employee of the board that exceeds the *maximum allowable reimbursement amount* (MARA) set by the board in its resolution to regulate expenses, or
2. Board member (50 ILCS 150/15).

See f/n 13, below, for more discussion about amending or adopting another resolution when expenses exceed the MARA required by the ECA.

⁴ 50 ILCS 150/10 requires boards to regulate the reimbursement of expenses by *resolution* or *ordinance*. Unlike like the powers granted by the Ill. General Assembly to municipalities to pass ordinances, school boards govern by rules referred to as *policies*. 105 ILCS 5/10-20.5. Further, school boards may only exercise powers given to them that are consistent with the School Code that may be requisite or proper for the maintenance, operation, and development of any school or schools under the jurisdiction of the board. 105 ILCS 5/10-20. Therefore, to effectuate the intent of the ECA's requirement to *regulate* expenses with an ordinance or resolution and stay within the confines of the School Code and best practice (minimize liability while aligning with the IASB "Foundational Principles of Effective Governance"), the language in this subhead:

1. Retains with the board its duty to *regulate* expenses through policy with a reference to a resolution that will define and set the types of allowable expenses in the district through the adoption of board policies 2:125, *Board Member Compensation; Expenses*, and 5:60, *Expenses* (105 ILCS 5/10-20)(see f/n 5, below);
2. Delegates to the superintendent the duty to recommend an appropriate MARA to the board for adoption in its resolution to regulate expenses (see f/n 7, below).

⁵ *Id.* For a sample resolution, see [sample exhibit 2:125-E3, Resolution to Regulate Expense Reimbursements](#). Consult the board attorney about how often the board should adopt or revisit its resolution (see f/ns 6 and 8, below). For discussion about setting an annual time of year to adopt the resolution, see f/n 6, below.

⁶ 50 ILCS 150/10 allows boards to determine this timeline locally.

recommend a maximum allowable reimbursement amount for expenses to be included in the resolution.⁷ The recommended amount should be based upon the District's budget and other financial considerations.⁸

Money shall not be advanced or reimbursed, or purchase orders issued for: (1) the expenses of any person except the Board member,⁹ (2) anyone's personal expenses,¹⁰ or (3) entertainment expenses.¹¹ Entertainment includes, but is not limited to, shows, amusements, theaters, circuses, sporting events, or

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While the ECA does not require boards to adopt an *annual* resolution to regulate expenses, an annual review provides a way for the board to monitor this policy's implementation and its duties under the ECA and [sample](#) policy 2:240, *Board Policy Development*.

This sample policy uses "No later than approval of the annual budget" to align with 105 ILCS 5/17-1 (annual budget adoption within the first quarter of each fiscal year). The words *and when necessary* allow for flexibility in situations discussed in f/n 13, below (*emergency and/or an extraordinary circumstance*).

Consider consulting the board's auditors to assist with this decision. Other options for the timing of when boards should set the MARA include ~~deleting No later than approval of the annual budget and replacing it with:~~

1. ~~Deleting No later than approval of the annual budget and replacing it with "At the start of each fiscal year"~~
2. ~~Deleting No later than approval of the annual budget and replacing it with "At the start of each school year"~~
3. ~~Deleting No later than approval of the annual budget and replacing it with "At the start of each calendar year"~~
or
4. ~~Deleting "No later than approval of the annual budget" and replacing it with "When presenting the proposed budget"~~

⁷ For practical purposes, this duty is delegated to the superintendent because:

1. The School Code:
 - a. Allows the board to delegate duties to the superintendent (105 ILCS 5/10-16.7), and
 - b. Assigns to the superintendent the duty to make recommendations to the board concerning the budget (105 ILCS 5/10-21.4); and
2. The MARA should be based upon a district's financial resources and other considerations important to the local district.

⁸ The ECA does not define MARA or how to determine it (see the first sentence of f/n 6, above). The board and superintendent should have a conversation that addresses at minimum the following topics:

1. Should the superintendent use and refer to line items from the current budget?
2. Would the board set per diems or set a very large number for the board and/or all of the district employees – both have their advantages and disadvantages.
3. Should the board categorize MARA by activity?
4. Will it categorize by individual responsibilities to the district or job titles/classes?
5. Should there be an amount category for each type of travel: airfare, train, automobile, taxi, etc.?
6. Will there be a special category for recurring and/or required training opportunities for teachers and board members?

These choices will depend upon many factors, including the budget, perhaps an auditor's recommendation, the community's preferences, and advice from the board attorney.

Amend the language throughout this subhead and in the fourth WHEREAS paragraph in [sample exhibit](#) 2:125-E3, *Resolution to Regulate Expense Reimbursements*, to reflect local preferences. Consider that inserting the actual MARA into the policy would likely require more formal continual policy updates as opposed to amending the resolution if a board needs to increase its MARA for any reason. For example, see the discussion in f/n 13, below.

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

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

¹¹ 50 ILCS 150/25.

any other place of public or private entertainment or amusement, unless the entertainment is ancillary to the purpose of the program or event. ¹²

Exceeding the Maximum Allowable Reimbursement Amount(s)

All requests for expense advancements, reimbursements, and/or purchase orders that exceed the maximum allowable reimbursement amount set by the Board may only be approved by it when:

1. The Board's resolution to regulate expenses allows for such approval;
2. An emergency or other extraordinary circumstance exists; and
3. The request is approved by a roll call vote at an open Board meeting. ¹³

Advancements

The Board may advance to its members actual and necessary expenses to be incurred while attending.¹⁴

1. Meetings sponsored by the Illinois State Board of Education or by the Regional Superintendent of Schools; ¹⁵
2. County or regional meetings and the annual meeting sponsored by any school board association complying with Article 23 of the School Code; and
3. Meetings sponsored by a national organization in the field of public school education.

Expense advancement requests must be submitted to the Superintendent or designee on the Board's standardized estimated expense approval form. After spending expense advancements, Board members must use the Board's standardized expense reimbursement form and submit to the Superintendent: (a) the itemized, signed advancement voucher that was issued, and (b) the amount of actual expenses by attaching receipts. A Board member must return to the District any portion of an expense advancement not used.¹⁶ If an expense advancement is not requested, expense reimbursements may be issued by the

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¹² Id.

¹³ 50 ILCS 150/10 and 15. A board may need to revisit its resolution to regulate expenses more often than annually if (a) an expense reimbursement amount exceeds the MARA set in the board's resolution, and (b) an *emergency* or an *extraordinary circumstance* does not exist. Consult the board attorney in these circumstances to determine whether the board may need to revisit and amend its resolution to increase the MARA before approving the expenses exceeding it.

Emergency or an *extraordinary circumstance* is not defined by the ECA, but these terms are meant to allow boards flexibility when expenses exceed the MARA. Yet approving expense reimbursement requests that exceed the MARA as *emergencies* or *extraordinary circumstances* when the board or superintendent "did not plan well" or "an organization's conference fees went up more than expected this year after the board adopted its resolution," may open the board to public relations and other legal challenges. See Laukhuf v. Bd. of Educ., 2003 WL 23936148 (Ill.Cir. 2003)(addressing what constitutes an *emergency* in the context of the Open Meetings Act (OMA)(5 ILCS 120/), which similar to the ECA, also does not define the term, and holding an emergency meeting to cure a situation that a school board created itself is not an emergency within the confines of OMA).

While the ECA does not provide for specific legal penalties for the wrongful approval of expenses, it is not clear whether a court may find in circumstances of poor MARA planning, that an *emergency* or *extraordinary circumstance* under the ECA did not exist and grant relief requested by a challenger as allowed under State law.

¹⁴ 105 ILCS 5/10-22.32 authorizes advancements for the listed items. This advancement language pre-dates the ECA and is narrower than the ECA. A reasonable interpretation is that the MARA required in the ECA would apply to any advancement amount. This policy seeks to reconcile and highlight the differences between the School Code and the ECA requirements by separating School Code advancements into a separate subhead from ECA reimbursements (estimated and actual). For more distinctions between these laws and further discussion, see f/n 20, below.

¹⁵ Use this alternative for districts in suburban Cook County: replace "Regional Superintendent of Schools" with "appropriate Intermediate Service Center Executive Director."

¹⁶ 105 ILCS 5/10-22.32 requires the return of excess advancements that are issued.

Board to its members for the activities listed in numbers one through three, above, along with registration fees or tuition for a course(s) that allowed compliance with the mandatory trainings described in policy 2:120, *Board Member Development* and other professional development opportunities that are encouraged by the School Code (see the Reimbursements and Purchase Orders subhead, below).¹⁷ Expense advancements and vouchers shall be presented to the Board in its regular bill process.

Reimbursements and Purchase Orders

Expense reimbursement is not guaranteed and, when possible, Board members should seek pre-approval of expenses¹⁸ by providing an estimation of expenses on the Board's standardized estimated expense approval form, except in situations when the expense is diminutive. When pre-approval is not sought, Board members must seek reimbursement on the Board's standardized expense reimbursement form. Expense reimbursements and purchase orders shall be presented to the Board in its regular bill process.

Credit and Procurement Cards ¹⁹

Credit and procurement cards shall not be issued to Board members.

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¹⁷ Boards have this power under 105 ILCS 5/10-20; this statute specifies that the grant of powers to school boards is not exclusive and that school boards may exercise other powers that are not inconsistent with duties. A board may expand this provision's scope by amending and adding to the sentence as follows:

“~~and~~ other professional development opportunities that are encouraged by the School Code, and other training provided by one of the entities described in the above list.”

See also f/n 8 in sample policy 2:120, *Board Member Development* for an example of a board member professional development opportunity that is encouraged by the School Code.

¹⁸ Optional. Consult the board attorney to determine whether a pre-approval process is appropriate for the district. Neither 105 ILCS 5/10-22.32 (expense advancements) nor 50 ILCS 150/ (expense reimbursements and estimates) address expense *pre-approvals*. 50 ILCS 150/20 states: “an *estimate* if expenses have not been incurred ...” or “a *receipt* ... if the expenses have already been incurred,” suggesting no pre-approval is necessary. However, pre-approval is a best practice, and a board member who incurs expenses without pre-approval may run the risk that his or her expenses will not be approved. On the other hand, submitting estimated expenses for approval begs a pre-approval process, and some attorneys may read the law to require pre-approval of expenses. The pre-approval process also provides school officials with better information for financial planning.

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

¹⁹ Optional. Consult the board attorney about issuing credit and procurement cards to board members. See f/n 1 of sample policy 4:55, *Use of Credit and Procurement Cards*.

If in consultation with the board attorney credit and procurement cards will be issued to board members, delete “~~Credit and procurement cards shall not be issued to Board members.~~” and insert “Credit and procurement card usage is governed by policy 4:55, *Use of Credit and Procurement Cards*.”

Standardized Expense Form(s) Required ²⁰

All requests for expense advancement, reimbursement, and/or purchase orders in the District must be submitted on the appropriate itemized, signed standardized form(s). The form(s) must show the following information:

1. The amount of the estimated or actual expense, with attached receipts for actual incurred expenses.
2. The name and office of the Board member who is requesting the expense advancement or reimbursement. Receipts from group functions must include the names, offices, and job titles of all participants. ²¹
3. The date(s) of the official business on which the expense advancement or reimbursement will be or was expended.
4. The nature of the official business conducted when the expense advancement or reimbursement will be or was expended.

Types of Official Business for Expense Advancements, Reimbursements, and Purchase Orders

1. Registration. When possible, registration fees will be paid by the District in advance.
2. Travel. The least expensive method of travel will be used, providing that no hardship will be caused to the Board member. Board members will be reimbursed for:
 - a. Air travel at the coach or economy class commercial airline rate. First class or business class air travel will be reimbursed only if emergency circumstances warrant. The emergency circumstances must be explained on the expense form and Board approval of the additional expense is required. Fees for the first checked bag will be reimbursed. ²² Copies of airline tickets and baggage receipts must be attached to the expense form.
 - b. Rail or bus travel at actual cost. Rail or bus travel costs may not exceed the cost of coach airfare. Copies of tickets must be attached to the expense form to substantiate amounts.
 - c. Use of personal automobiles at the standard mileage rate approved by the Internal Revenue Service for income tax purposes. The reimbursement may not exceed the cost of coach airfare. Mileage for use of personal automobiles in trips to and from transportation terminals will also be reimbursed. Toll charges and parking costs will be reimbursed.
 - d. Automobile rental costs when the vehicle's use is warranted. The circumstances for such use must be explained on the expense form.

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²⁰ 50 ILCS 150/20. The School Code uses the term *voucher* for expense advancements (105 ILCS 5/10-22.32). The **PRESS** materials on expenses marry the School Code's advancement voucher requirement into the ECA's requirement for a standardized estimated expense form. For an example, see [sample exhibits](#) 2:125-E2, *Board Member Estimated Expense Approval Form*, and 5:60-E2, *Employee Estimated Expense Approval Form*. These forms provide three methods for board members or district employees to submit anticipated/estimated expenses:

1. Providing estimated expenses under 50 ILCS 150/ (including for grant-related travel, see f/n 24, below),
2. Requesting expense advancements for the activities listed under 105 ILCS 5/10-22.32, or
3. Obtaining a purchase order (highly unlikely for anticipated board member expenses but possible).

²¹ 50 ILCS 150/20(2) and (3).

²² Optional. This language reflects the standard for expenses permitted for federal and State grants. 41 C.F.R. §301-12.2. If the board does not reimburse baggage fees, delete this sentence and ~~and baggage receipts~~ from the next sentence.

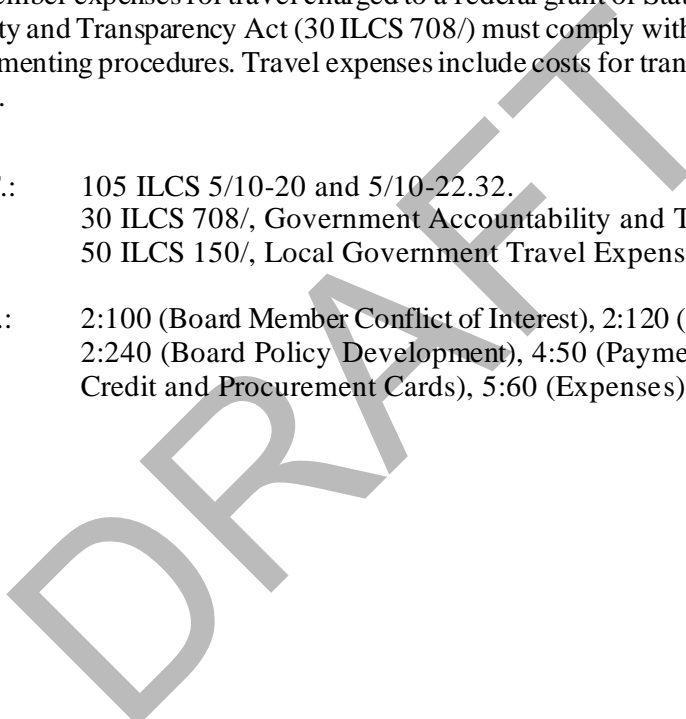
- e. Taxis, airport limousines, ride sharing or other local transportation costs.
3. Meals. Meals charged to the School District should represent mid-fare selections for the hotel/meeting facility or general area, consistent with the maximum allowable reimbursement amount set by the Board.²³ Tips are included with meal charges. Expense forms must explain the meal charges incurred. Alcoholic beverages will not be reimbursed.
4. Lodging. Board members should request conference rate or mid-fare room accommodations. A single room rate will be reimbursed. Board members should pay personal expenses at checkout. If that is impossible, deductions for the charges should be made on the expense form.
5. Miscellaneous Expenses. Board members may seek reimbursement for other expenses incurred while attending a meeting sponsored by organizations described herein by fully describing the expenses on the expense form, attaching receipts.

Additional Requirements for Travel Expenses Charged to Federal and State Grants ²⁴

All Board member expenses for travel charged to a federal grant or State grant governed by the Grant Accountability and Transparency Act (30 ILCS 708/) must comply with Board policy 5:60, *Expenses*, and its implementing procedures. Travel expenses include costs for transportation, lodging, meals, and related items.

LEGAL REF.: 105 ILCS 5/10-20 and 5/10-22.32.
30 ILCS 708/, Government Accountability and Transparency Act.
50 ILCS 150/, Local Government Travel Expense Control Act.

CROSS REF.: 2:100 (Board Member Conflict of Interest), 2:120 (Board Member Development), 2:240 (Board Policy Development), 4:50 (Payment Procedures), 4:55 (Use of Credit and Procurement Cards), 5:60 (Expenses)



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²³ Alternatively, a board could set a daily limit on meal costs, such as:

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

But see also f/n 8, above and ensure this amount is consistent with the MARA set by the board resolution.

²⁴ Required by 30 ILCS 708/130. See sample policy 5:60, *Expenses*, and its f/ns 22-36 for details. Federal travel regulations state that requests for authorization for actual expense reimbursement should be made in advance of travel. 2 C.F.R. §301-11.302. Sample exhibit 2:125-E2, Board Member Estimated Expense Approval Form, can be used as a form for pre-approval.

School Board

Board Attorney ¹

The School Board may retain legal services with one or more attorneys or law firms to be the Board Attorney(s). The Board Attorney represents the ~~School~~ Board in its capacity as the governing body for the School District.² The Board Attorney serves on a retainer or other fee arrangement as determined in advance. The Board Attorney will provide services as described in the agreement for legal services or as memorialized by an engagement letter.³ The District will only pay for legal services that are provided in accordance with the agreement for legal services, as memorialized by an engagement letter, or that are otherwise authorized by this policy or a majority of the Board.

The Superintendent, his or her designee, and Board President, are each authorized to confer with and/or seek the legal advice of the Board Attorney.⁴ The Board may also authorize a specific Board member to confer with the Board Attorney on its behalf.

The Superintendent may authorize the Board Attorney to represent the District in any legal matter until the Board has an opportunity to be informed of and/or consider the matter.

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¹ The attorney's selection and duties are totally within the board's discretion – bidding is not required. 105 ILCS 5/10-20.21.

² Rule 1.7 (Conflict of Interest: Current Clients) and Rule 1.13 (Organization as Client) of the Ill. Rules of Professional Conduct, at www.illinoiscourts.gov/supremecourt/rules/art_viii/default_new.asp www.illinoiscourts.gov/rules/supreme-court-rules?a=viii, address concurrent conflicts of interest. Board presidents, superintendents, and board attorneys should be prepared to ask potential board attorneys whether they will have the ability to declare that representation of the board and district will be to the exclusion of all other clients having potential conflicts with the board and district's interests. See exhibit 2:160-E, *Checklist for Selecting a Board Attorney*.

³ There is no general format for an agreement for legal services or an engagement letter. To help monitor its legal fees, a board should require a written agreement or an engagement letter with the board attorney or law firm that details the services, fees, expenses, and billing format. See [sample](#) exhibit 2:160-E, *Checklist for Selecting a Board Attorney*.

Legal services can be spelled out in the policy but boards face the attendant risk of conflicting lists. However, a board desiring such a list can use the following:

The attorney will:

1. Serve as counselor to the Board and attend Board meetings when requested by the Superintendent or Board President;
2. Represent the District in any legal matter as requested by the Board;
3. Provide written opinions on legal questions as requested by the Superintendent or Board President;
4. Approve, prepare, or supervise the preparation of legal documents and instruments and perform such other legal duties as the Board may request; and
5. Be available for telephone consultation.

⁴ Depending on the fee arrangement, contacting the board attorney generates fees owed by the district. Thus, to avoid excessive attorney fees, the board should consider limiting individuals who are authorized to contact the board attorney. Additional individuals may be added to this sentence as in the alternative below:

The following people are authorized to confer with and/or seek the legal advice of the Board Attorney: Superintendent or designee, Business Manager, District Freedom of Information Officer, Complaint Manager(s), District treasurer, and the Board President.

Individual board members should refrain from discussing their board attorney's advice outside of a board meeting. Disclosing legal advice can waive the attorney-client privilege. Individual board members possess none of the board's powers and are not authorized to individually waive attorney-client privilege on behalf of the board as an entity.

The Board retains the right to consult with or employ other attorneys and to terminate the service of any attorney.

LEGAL REF.: Rule 1.7 (Conflict of Interest: Current Clients) and Rule 1.13 (Organization as Client) of the Ill. Rules of Professional Conduct adopted by the Ill. Supreme Court.

CROSS REF.: 4:60 (Purchases and Contracts)

DRAFT

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.

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

¹ **Consult the board attorney before adoption of this policy.** Districts may choose to provide or implement more protections than the statutory requirements outlined in this sample policy. While the laws that apply to this policy govern current management of sensitive information, best practices may outpace the law's ability to keep up. See also f/n 19 to sample policy 2:250, *Access to District Public Records*, detailing the preservation requirements of the Local Records Act (50 ILCS 205/3), the Family Educational Rights and Privacy Act (20 U.S.C. §1232g), and the Ill. School Student Records Act (105 ILCS 10/), and litigation holds or document preservation requirements pursuant to Federal Rules of Civil Procedure (Rules 16 and 26).

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

Another State law, the Personal Information Protection Act (PIPA) (815 ILCS 530/, ~~amended by P.A. 101-343, eff. 1-1-20,~~) requires *data collectors of personal information* to provide certain notice to Illinois residents, and in certain cases, the Ill. Attorney General, when the collector's system data is breached. 815 ILCS 530/10, ~~amended by P.A. 101-343, eff. 1-1-20.~~ Under PIPA, *data collector* is broadly defined to include government agencies and any entities that deal with nonpublic *personal information*. *Personal information* is defined as: (1) an individual's first name or first initial combined with an SSN, driver's license number or State identification card number, financial account information (including without limitation, credit or debit card numbers), medical or health insurance information or biometric data; or (2) a username or email address in combination with a password or security question and answer that would permit access to an online account. *Id.* at 530/5. Depending on whether the *data collector* owns or merely maintains or stores the information, additional notification requirements will also apply. Finally, PIPA requires *units of local governments* to dispose of personal information so that it may not be read or reconstructed. *Id.* at 530/40. It is unclear whether Section 530/40 applies to school districts because PIPA does not specifically identify school districts as *units of local governments* (Ill. Constitution Article VII, Sec. 1). However, the Ill. State Board of Education (ISBE) considers PIPA to apply to the handling of personally identifiable information under grant awards. See the ISBE *Checklist for Protection of Personally Identifiable Information Review*, referenced in f/n 9, below. **Consult the board attorney for advice on the applicability of PIPA's various mandates to your district.** See f/n 4, below for more information about options to include PIPA requirements in this sample policy.

[The U.S. Cybersecurity & Infrastructure Security Agency \(CISA\) recommends that K-12 districts have an incident response plan \(IRP\) that details what a district needs to do before, during, and after an actual or potential security incident. See www.cisa.gov/online-toolkit-partnering-safeguard-k-12-organizations-cybersecurity-threats. In the case of a data breach, it is critical for a district to have an IRP in place that is customized to local conditions and to practice the plan. Having an IRP may also be required for cyber liability insurance coverage. For resources and templates, see https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.800-61r2.pdf, www.ilcillinois.org/resources/k12-incident-response-plan-template-security-studio, https://studentprivacy.ed.gov/resources/data-breach-scenario-trainings, and www.k12six.org/essentials-series.](https://www.cisa.gov/online-toolkit-partnering-safeguard-k-12-organizations-cybersecurity-threats)

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

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}

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

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

³ The IPA requires items #1-4 to be covered in a policy. 5 ILCS 179/35(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 and, if applicable, the owner of the information, as required by 815 ILCS 530/10 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. Notification to the Ill. Attorney General as required by 815 ILCS 530/10, if a single breach of the security system requires the District to notify more than 500 Illinois residents.
3. Cooperation with the owner of the information in matters relating to the breach, if applicable, as required by 815 ILCS 530/10.
4. 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.

⁵ See [sample exhibit 4:15-E2](#), *-Statement of Purpose for Collection of Social Security Numbers*.

5. All employees must be advised of this policy's existence, and a copy of the policy must be made available to each employee. The policy must also be made available to any member of the public, upon request. ⁶
6. If this policy is amended, employees will be advised of the existence of the amended policy and a copy of the amended policy will be made available to each employee. ⁷

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

Treatment of Personally Identifiable Information Under Grant Awards ⁹

The Superintendent ensures that the District takes reasonable measures to safeguard: (1) *protected personally identifiable information*,¹⁰ (2) other information that a federal awarding agency, pass-through agency or State awarding agency designates as sensitive, such as *personally identifiable information* (PII)¹¹ and (3) information that the District considers to be sensitive consistent with

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⁶ Items #5 and #6 are not required to be in policy but districts are required to perform the described action(s). 5 ILCS 179/35(b). These compliance measures are covered in [sample administrative procedure 4:15-AP1, Protecting the Privacy of Social Security Numbers](#).

⁷ Optional. See f/n 6 above.

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

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

⁹ While the federal regulations on procurement standards in 2 C.F.R. Part 200 do not specifically require a written policy on the treatment of *personally identifiable information* (PII) under grant-funded programs, the Ill. State Board of Education's (ISBE's) *Checklist for Protection of Personally Identifiable Information Review* (ISBE Checklist), at www.isbe.net/Pages/Federal-and-State-Monitoring.aspx ~~www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx~~, requires an approved policy or policies related to the identification, handling, storage, access, disposal, and overall protection of PII as evidence of legal compliance with the Grant Accountability and Transparency Act (GATA) (30 ILCS 708/) and federal regulations. The ISBE Checklist is specific to PII handled by districts in connection with their administration of grants. The uniform federal rules on procurement standards in 2 C.F.R. Part 200 apply to eligible State grants through the Grant Accountability and Transparency Act (GATA) (30 ILCS 708/). This [sample](#) policy and accompanying [sample](#) administrative procedure 4:15-AP2, *Treatment of Personally Identifiable Information Under Grant Awards*, are designed to help districts meet the standard set forth in 2 C.F.R. 200.303(e) and the documentation items on the ISBE Checklist.

¹⁰ *Protected personally identifiable information* (Protected PII) means an individual's first name or first initial and last name in combination with any one or more types of information, including, but not limited to, social security number, passport number, credit card numbers, clearances, bank numbers, biometrics, date and place of birth, mother's maiden name, criminal records, medical records, financial records, or educational transcripts. Protected PII does not include *personally identifiable information* (PII) that is required by law to be disclosed. 2 C.F.R. §200.182. See [sample administrative procedure 4:15-AP2, Treatment of Personally Identifiable Information Under Grant Awards](#). Protected PII is similar to, but broader than, the definition of *personal information* under PIPA.

¹¹ PII is a broader concept than Protected PII. Said another way, Protected PII is a subset of PII.

applicable laws regarding privacy and confidentiality (collectively, *sensitive information*), when administering federal grant awards and State grant awards governed by the Grant Accountability and Transparency Act (30 ILCS 708/).

The Superintendent shall establish procedures for the identification, handling, storage, access, disposal and overall confidentiality of sensitive information.¹² The Superintendent shall ensure that employees and contractors responsible for the administration of a federal or State award for the District receive regular training in the safeguarding of sensitive information.¹³ Employees mishandling sensitive information are subject to discipline, up to and including dismissal.

LEGAL REF.: 2 C.F.R. §200.303(e).
5 ILCS 179/, Identity Protection Act.
30 ILCS 708/, Grant Accountability and Transparency Act.
50 ILCS 205/3, Local Records Act.
105 ILCS 10/, Illinois School Student Records Act.

CROSS REF: 2:250 (Access to District Public Records), 5:150 (Personnel Records), 7:340 (Student Records), [7:345 \(Use of Educational Technologies; Student Data Privacy and Security\)](#)

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

PII means information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual. Some information that is considered to be PII is available in public sources such as telephone books and public websites, and it is considered to be Public PII. Public PII includes, for example, first and last name, address, work telephone number, email address, home telephone number, and general educational credentials. The definition of PII is not anchored to any single category of information or technology. Rather, it requires a case-by-case assessment of the specific risk that an individual can be identified. Non-PII can become PII whenever additional information is made publicly available, in any medium and from any source, that, when combined with other available information, could be used to identify an individual. 2 C.F.R. §200.179.

In addition to 2 C.F.R. 200.303(e), depending upon the type of record being created or used in connection with a grant-funded program, multiple laws may govern the treatment of *personally identifiable information* (PII) under a grant, including the IPA (5 ILCS 179/), PIPA (815 ILCS 530/), Family Educational Rights and Privacy Act, (20 U.S.C. §1232g), Ill. School Student Records Act (105 ILCS 10/), Student Online Personal Protection Act, (105 ILCS 85/~~amended by P.A. 101-516, eff. 7-1-21~~), Personnel Record Review Act (820 ILCS 40/), and Local Records Act (50 ILCS 205/3).

¹² See [sample administrative procedure](#) 4:15-AP2, [Treatment of Personally Identifiable Information Under Grant Awards](#).

¹³ The ISBE Checklist requires districts to maintain documentation of training of all employees/contractors on the handling of PII, including evidence of the date(s) of the training and attendance/completion of the training. See [www.isbe.net/Pages/Federal-and-State-Monitoring.aspx](#)~~www.isbe.net/Pages/Audit-and-Monitoring-Review-Requirements-and-Tools.aspx~~. Because many individuals in a district can be involved in day-to-day administration of activities supported by a federal or State grant, best practice is to regularly train all employees on the safeguarding of such sensitive information, e.g., upon hire and then annually or semi-annually.

Operational Services

Incurring Debt ¹

The Superintendent shall provide early notice to the School Board of the District's need to borrow money. The Superintendent or designee² shall prepare all documents and notices necessary for the Board, at its discretion, to: (1) issue State Aid Anticipation Certificates,³ tax anticipation warrants,⁴ working cash fund bonds,⁵ bonds,⁶ notes,⁷ and other evidence of indebtedness,⁸ or (2) establish a line of credit with a bank or other financial institution.⁹ The Superintendent shall notify the III. State Board of Education before the District issues any form of long-term or short-term debt that will result in outstanding debt that exceeds 75% of the debt limit specified in State law. ¹⁰

Bond Issue Obligations ¹¹

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

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

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

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

⁴ 105 ILCS 5/17-16.

⁵ 105 ILCS 5/20-2, 5/20-4, and 5/20-5, amended by P.A. 101-416; 30 ILCS 305/2.

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

⁷ 50 ILCS 420/0.01 et seq. A district may borrow money and issue bonds for the purposes stated in 105 ILCS 5/19-3, provided the board properly adopted an election referendum and subsequently the voters approved the proposition. 10 ILCS 5/28-2. Districts have the authority to issue bonds for certain purposes without a direct referendum, e.g., School Fire Prevention and Safety Bonds, Working Cash Fund Bonds, Funding Bonds, and Insurance Reserve Bonds. However, as is the case with Working Cash Fund Bonds, certain types of bonds still require boards to follow *backdoor referendum* procedures.

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

⁹ 105 ILCS 5/17-17.

¹⁰ 105 ILCS 5/19-1(q).

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

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

Securities Act of 1933, as amended¹² and, if applicable, the continuing disclosure obligations under Rule 15c2-12 of the Securities Exchange Act of 1934, as amended. ¹³

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

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

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

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

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

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

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

¹² 15 U.S.C. §77q.

¹³ 17 C.F.R. §240.15c2-12. See [sample administrative procedure 4:40-AP, Preparing and Updating Disclosures](#), for a detailed set of sample procedures designed to facilitate a district's compliance with disclosure requirements of federal securities laws.

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

Operational Services

Resource Conservation ¹

The Superintendent or designee shall manage a program of energy and resource conservation for the District that includes:

1. Periodic review of procurement procedures and specifications to ensure that purchased products and supplies are reusable, durable, or made from recycled materials, if economically and practically feasible. ²
2. Purchasing recycled paper and paper products in amounts that will, at a minimum, meet the specifications in the School Code, if economically and practically feasible. ³
3. Periodic review of procedures on the reduction of solid waste generated by academic, administrative, and other institutional functions. These procedures shall: (a) require recycling the District’s waste stream, including landscape waste, computer paper, and white office paper, if economically and practically feasible; (b) include investigation of the feasibility of potential markets for other recyclable materials that are present in the District’s waste stream; and (c) establish a goal for the be designed to achieve, before July 1, 2020, at least a 50% reduction in the amount of solid waste that is generated by the District, when it is economically and practically feasible to do so. ⁴
4. ~~Adherence to e~~Energy conservation measures. ⁵

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¹ State or federal law controls this policy’s content. 105 ILCS 5/10-20.19c.

² Required by 105 ILCS 5/10-20.19c(a-5).

³ Required by 105 ILCS 5/10-20.19c(b) - (e).

⁴ ~~Required by~~ 105 ILCS 5/10-20.19c(e-5). ~~Everything in this paragraph is~~ Item (a) is mandatory. ~~Item (b) except that this not mandatory because the~~ statute only “encourages” districts to investigate “potential markets for other recyclable materials that are present in the school district’s waste stream.” 105 ILCS 5/10-20.19c(e-5) required districts to have waste reduction procedures designed to achieve at least a 50% reduction in the amount of solid waste generated by the district before 7-1-20, but it was unclear about what year or baseline number ~~or year that~~ a district ~~must needed to~~ use to determine whether it ~~has achieved at least a 50% reduction in the amount of solid waste that it generates by 7-1-20~~ the reduction. One option for a baseline ~~may be to~~ was to use the date this law became effective, which was 7-18-08, or the year closest to it for which the district ~~still retains~~ relevant records; ~~however, consult the board attorney for assistance in determining these baselines.~~ Item (c) is optional. The statute does not establish any reduction goals past 7-1-20, therefore item (c) gives districts the flexibility to establish additional goals when it is economically and practically feasible to do so.

⁵ Districts are authorized to enter into *guaranteed energy savings contracts* to implement *energy conservation measures*, including any improvement, repair, or alteration of any school district building, or any equipment or fixture to be added to a district building, that is designed to reduce energy consumption or operation costs. 105 ILCS 5/19b. The guaranteed energy savings contract must provide that all payments are to be made over time, and energy cost savings must be specified and guaranteed to the extent necessary to pay the costs of the energy conservation measures. State law provides the process for requesting proposals and entering into contracts. Any contract is valid whether or not funding has been appropriated in any budget adopted by the board.

LEGAL REF.: 105 ILCS 5/10-20.19c and 5/19b.

CROSS REF.: 4:60 (Purchases and Contracts), 4:150 (Facility Management and Building Programs)

DRAFT

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

Consult the board attorney about whether an energy conservation measure qualifies for funding as an energy conservation project under the Ill. Finance Authority Act (FAA). 20 ILCS 3501/. The FAA specifically includes energy conservation projects in school districts. 20 ILCS 3501/820-10(c). The FAA's definition of *energy conservation project* is very similar to the School Code's definition of *energy conservation measure* (105 ILCS 5/19b-1.1); it also includes measures that reduce the amount of electricity or natural gas required to achieve a given end use, consistent with the definition of *energy efficiency* in the Ill. Power Agency Act. 20 ILCS 3855/1-10. Funding under the FAA requires a certification that the project will be a cost-effective energy-related project that will lower energy or utility costs in connection with the operation or maintenance of such building or facility, and will achieve energy cost savings sufficient to cover bond debt service and other project costs within 10 years from the date of project installation. 20 ILCS 3501/820-10(c).

Operational Services

Accounting and Audits ¹

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

Annual Audit ²

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

Annual Financial Report ³

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

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

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

² Audit requirements are found in 105 ILCS 5/3-7 and 5/3-15.1, and 23 Ill.Admin.Code §100.110. The federal Single Audit Act adds audit requirements for federal programs. 31 U.S.C. §7501 *et seq.* [Grant Accountability Transparency Act \(GATA\) \(30 ILCS 708/\) rules also require districts that receive federal pass-through and State-issued awards to have a financial statement audit conducted in accordance with 23 Ill.Admin.Code §100.110, regardless of the amount of award expenditures.](#) 44 Ill.Admin.Code §7000.90(c)(3). See f/n 5, below, for additional information regarding GATA.

~~Use this alternative for~~For districts in suburban Cook County, replace “Regional Superintendent of Schools” with “appropriate Intermediate Service Center [Executive Director](#).”

The following optional sentence establishes an audit committee: “The Board will annually establish an audit committee to help the Board select an external auditor, confer with the auditor regarding the audit’s scope, and oversee the audit process.”

Note: All board committees are subject to the Open Meetings Act (5 ILCS 120/).

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

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

Inventories ⁴

The Superintendent or designee is responsible for establishing and maintaining accurate inventory records. The inventory record of supplies and equipment shall include a description of each item, quantity, location, purchase date, and cost or estimated replacement cost, unless the supplies and equipment are acquired by the District pursuant to a federal or State grant award, in which case the inventory record shall also include the information required by 2 C.F.R. §200.313, if applicable.⁵ The Superintendent shall establish procedures for the management of property acquired by the District under grant awards that comply with federal and State law. ⁶

Capitalization Threshold ⁷

To be considered a capital asset for financial reporting purposes, a capital item must be at or above a capitalization threshold of \$5,000 and have an estimated useful life greater than one year.

Disposition of District Property ⁸

The Superintendent or designee shall notify the Board, as necessary, of the following so that the Board may consider its disposition: (1) District personal property (property other than buildings and land) that

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⁴ ~~The Ill. Program Accounting Manual (IPAM) was repealed and replaced with the *Requirements for Accounting, Budgeting, Financial Reporting, and Auditing*. While these rules contain much of the IPAM information, the information about inventories was not included. That information is still useful and may be found at: www.isbe.net/Documents/ipam.pdf. The last sentence of this section should be modified to align with local conditions. The content of inventory records is at the district's discretion, with the exception of supplies and equipment that are governed by 2 C.F.R. §200.313. See f/n 5, below.~~

⁵ 2 C.F.R. §200.313. The uniform federal rules that govern federal grant awards in 2 C.F.R. Part 200 apply to State-issued grant awards through the Grant Accountability Transparency Act (GATA) (30 ILCS 708/), unless exempted in whole or in part by the Governor's Office of Management of Budget. 30 ILCS 708/55. See www.isbe.net/gata for further information about the scope of GATA's application to federal awards and State-funded grant programs administered by the Ill. State Board of Education (ISBE). See [sample administrative procedure 4:80-AP3, Inventory Management for Federal and State Awards](#). ISBE guidance is available at: www.isbe.net/Documents/fiscal_procedure_handbk.pdf and www.isbe.net/Pages/Federal-and-State-Monitoring.aspx ~~www.isbe.net/Pages/Audit and Monitoring Review Requirements and Tools.aspx.~~

⁶ *Id.* In connection with ISBE's grant monitoring function, ISBE published a *Checklist for Equipment and Inventory Review* which requires an approved policy (or procedure) related to the management of equipment at: ~~www.isbe.net/Pages/Federal-and-State-Monitoring.aspx www.isbe.net/Pages/Audit and Monitoring Review Requirements and Tools.aspx.~~

⁷ Optional. 23 Ill.Admin.Code §100.60 requires school boards to adopt a capitalization threshold, which can be done through policy. The capitalization threshold is a dollar figure above which the cost of an item will be included on financial statements and depreciated. A minimum threshold of \$5,000 and useful life greater than one year complies with the definition of *equipment* under federal grant rules, but may be adjusted, and/or multiple thresholds can be established, for different categories of capital assets. 2 C.F.R. §§200.133 and 200.313(e). The Government Accounting Standards Board (GASB) Statement No. 34 at para. 115(e) states that a government should disclose its policy "for capitalizing assets and for estimating the useful lives of those assets." See GASB Statement 34 and *Guide to Implementation of GASB Statement 34 on Basic Financial Statements* (p.28), both available at: www.gasb.org. ~~There are no specific requirements for such policies; however, District auditors may require or recommend a district have a more comprehensive capitalization policy and/or procedure. Such an accounting policy or procedure should be developed in consultation with the district's accounting professional(s) and tailored to reflect local conditions.~~

⁸ The requirements in this section are specified in 105 ILCS 5/5-22 (allowing property constructed or renovated by students as part of a curricular program to be sold through the services of a licensed real estate broker subject to certain requirements), 5/10-22.8 ([sale of personal property](#)); and 2 C.F.R. §200.313(e) for federal awards and State awards governed by GATA. See f/n 5, above, regarding grant award requirements. A board that desires to act on the disposition of property having *any* value should use the following alternative to this section's last sentence: "Notwithstanding the above, the Superintendent or designee may unilaterally dispose of worthless personal property."

is no longer needed for school purposes, and (2) school site, building, or other real estate that is unnecessary, unsuitable, or inconvenient. Notwithstanding the above, the Superintendent or designee may unilaterally dispose of personal property of a diminutive value. The Superintendent shall establish procedures for the disposition of property acquired by the District under grant awards that comply with federal and State law.

Taxable Fringe Benefits⁹

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

Controls for Revolving Funds and Petty Cash¹⁰

Revolving funds and the petty cash system are established in Board policy 4:50, *Payment Procedures*. The Superintendent shall: (1) designate a custodian for each revolving fund and petty cash fund, (2) obtain a bond for each fund custodian, and (3) maintain the funds in compliance with this policy, State law, and ISBE rules. A check for the petty cash fund may be drawn payable to the designated petty cash custodian. Bank accounts for revolving funds are limited to a maximum balance of ~~\$500,000~~\$1,000. All expenditures from these bank accounts must be directly related to the purpose for which the account was established and supported with documentation, including signed invoices or receipts. All deposits into these bank accounts must be accompanied with a clear description of their intended purpose. The Superintendent or designee shall include checks written to reimburse revolving funds on the Board's monthly listing of bills indicating the recipient and including an explanation.

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

⁹ The intent of this optional section is twofold: (1) to control personal use of district property and equipment; and (2) to ensure compliance with IRS rules. As to the first point, allowing personal use of district property or equipment is arguably prohibited by the Ill. Constitution, Art. VIII, Sec. 1 which states: "Public funds, property or credit shall be used only for public purposes." As to the second point, any fringe benefit an employer provides is taxable and must be included in the recipient's pay unless the law specifically excludes it. See Publication 15-B (2019), *Employer's Tax Guide to Fringe Benefits*, at: www.irs.gov/pub/irs-pdf/p15b.pdf.

¹⁰ 105 ILCS 5/10-20.19(2); 23 Ill.Admin.Code §100.70. This paragraph's contents are mandatory, except for the ~~\$1,000~~\$500 cap on the maximum balance of revolving funds. The cap amount may be changed or the following alternative used: "Each revolving fund shall be maintained in a bank that has been approved by the Board and established in an amount approved by the Superintendent consistent with the annual budget."

The School Code defines petty cash as a type of revolving fund. Id. It and other revolving funds carry a standard balance and are regularly reimbursed to maintain the standard balance amount (generally referred to as an *imprest system* of financial accounting). In practice, petty cash is paid out of a *de minimis* cash amount maintained by a fund custodian. Disbursement from a revolving fund other than petty cash is typically made against an imprest checking account, by an authorized signor who is readily available in the district, e.g., a superintendent or building principal. The authorized signor manages the revolving fund and requests the board to reimburse the fund for expenses incurred to bring the imprest account back to its standard balance.

Control Requirements for Checks ¹¹

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

Internal Controls ¹²

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

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¹¹ This section is largely up to the local board's discretion; additional controls may be added. The following alternative to the second sentence will mandate two signatories for checks:

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

See [sample](#) policy 4:90, *Student Activity and Fiduciary Funds*, for more information about a board's responsibilities for *student activity funds* and *fiduciary funds*. A board must comply with State law requirements concerning the use of facsimile or electronic signatures on checks. The Secretary of State, Index Department, maintains certified manual signatures of officers authorized to sign checks. Uniform Facsimile Signature of Public Officials Act, 30 ILCS 320/. Electronic records and signatures are governed by the Uniform Electronic Transactions Act, 815 ILCS 333/-, ~~added by P.A. 102-38~~. Attorneys disagree about the applicability of these laws to school districts.

¹² This section is largely up to the local board's discretion. The annual audit must include a "review and testing of the internal control structure." 23 Ill.Admin.Code §100.110. This review's limited scope means that boards should not rely on it to reveal uncontrolled financial risks. The board's responsibility is to establish policy to safeguard the district's financial condition. Indeed, the oath of office includes this promise: "I shall respect taxpayer interests by serving as a faithful protector of the school district's assets." In this sample policy, the board sets the control objectives and the superintendent is responsible for developing an internal controls system. In addition, ISBE has issued guidance on internal controls pursuant to its administration of the Grant Accountability and Transparency Act (GATA), 30 ILCS 708/. See ~~the~~ [ISBE's State and Federal Grant Administration Policy, Fiscal Requirements, and Procedures—Fiscal Procedures Handbook](#), at: www.isbe.net/Documents/fiscal_procedure_handbk.pdf, which states that "to establish a strong control environment, grantees must...[d]esign internal controls that are in compliance with guidance in *Standards for Internal Control in the Federal Government* issued by the Comptroller General of the United States" (a free resource, available at: www.gao.gov/assets/670/665712.pdf) or the *Internal Control Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (a fee-based resource, available at: www.coso.org/guidance-on-ic <https://www.coso.org/Pages/ic.aspx>). Boards that wish to take a larger oversight role regarding internal controls may list the numbered sentences in the IASB sample administrative procedure 4:80-API, *Checklist for Internal Controls*, as required inclusions in the superintendent's program for internal controls. This alternative, for insertion at the end of this section's first paragraph, follows:

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

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

waste, and abuse,¹³ as well as employee error, misrepresentation by third parties, or other imprudent employee action.

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

LEGAL REF.: 2 C.F.R. §200 et seq.
30 ILCS 708/, Grant Accountability and Transparency Act, implemented by 44 Ill.Admin.Code 7000 et seq.
105 ILCS 5/2-3.27, 5/2-3.28, 5/3-7, 5/3-15.1, 5/5-22, 5/10-21.4, 5/10-20.19, 5/10-22.8, and 5/17-1 et seq.
23 Ill.Admin.Code Part 100.

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

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¹³ Unless specifically exempted, grantees receiving funds from any State agency, including ISBE, must comply with GATA and annually complete a *Fiscal and Administrative Internal Controls Questionnaire* (ICQ). The ICQ covers a number of different topics related to internal controls. Districts that are identified as having one or more areas of elevated risk based on their answers to the ICQ, are required to develop and implement corrective action to address the area(s). Districts that fail to take necessary corrective action to address weak areas of internal control put their grant funding at risk. One of the sections of the ICQ may address a grantee's internal controls for fraud, waste, and abuse, including whether the grantee has a *fraud awareness program*. See sample administrative procedures 4:80-AP1, *Checklist for Internal Controls*, and 4:80-AP2, *Fraud, Waste, and Abuse Awareness Program*, which incorporate ISBE-recommended practices related to fraud, waste, and abuse.

Operational Services

Waiver of Student Fees¹

The Superintendent will recommend to the School Board a schedule of fees, if any, to be charged students for the use of textbooks, consumable materials, extracurricular activities, and other school student fees. Students must also pay fines for the loss of or damage to school books or other school-owned materials.

Fees for textbooks, other instructional materials, and driver education, as well as fines for the loss or damage of school property are waived for students who meet the eligibility criteria for a waiver as described in this policy.² In order that no student is denied educational services or academic credit due to the inability of parents/guardians to pay student fees and fines, the Superintendent will recommend

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¹ State law requires this subject matter be covered by policy and controls its content. 105 ILCS 5/10-20.13, amended by P.A.s 102-1032, ~~and 102-805, and 103-154~~ ~~eff. 1-1-23~~; 23 Ill.Admin.Code §1.245. ~~Though 105 ILCS 5/10-20.13 has been amended by P.A.s 102-1032 and 102-805, eff. 1-1-23, the Illinois State Board of Education (ISBE) has yet to update its implementing rules at 23 Ill.Admin.Code §1.245 in response. Fees~~ are “any monetary charge collected by a public school, public school district, or charter school from a student or the parents or guardian of a student as a prerequisite for the student’s participation in any curricular or extracurricular program of the school or school district as defined [at 23 Ill.Admin.Code §1.245(1) and (2)].” 105 ILCS 5/1-3, amended by P.A. 102-805, ~~eff. 1-1-23~~. ~~Fines include “charges for the loss of school property assessed by a district.” 23 Ill.Admin.Code §1.245.~~

State law provides that “[n]o discrimination or punishment of any kind, including, but not limited to: the lowering of grades, exclusion from classes, or withholding of student records, transcripts, or diplomas may be exercised against a student because the student’s parents or guardians are unable to purchase required textbooks or instructional materials or to pay required fees.” 105 ILCS 5/28-19.2, amended by P.A. 102-805, ~~eff. 1-1-23~~; 23 Ill.Admin.Code §1.245(g). This policy concerns an area in which the law is unsettled (see footnotes 2 and 3). If the fee ~~or fine~~ waiver policy ~~and~~ or procedures are substantively amended, then parents/guardians must be notified in writing within 30 calendar days following the adoption of the amendments. 23 Ill.Admin.Code §1.245(e).

² Districts must waive textbooks fees and all fees and fines for the loss of school property for students whose parents/guardians are unable to afford them and for homeless children and youth. 105 ILCS 5/10-20.13, amended by P.A.s 102-1032, ~~and 102-805, and 103-154~~ ~~eff. 1-1-23~~. While districts are only required to waive fines for the *loss* of school property and not the *damage* of school property, this sample policy extends fine waivers to both for ease of implementation and to encourage students to return school property even if damaged (instead of claiming property is lost to avoid a fine). ~~Delete or damage if the board, after consulting with the board attorney, decides to only waive fines for the loss of school property.~~

In order to effectuate the law’s intent, the term “textbook” should be interpreted broadly to include fees for instructional materials, laboratory fees, and workbooks. The enforceability of 105 ILCS 5/10-20.13(b) and ISBE regulations (23 Ill.Admin.Code §1.245) requiring districts to waive “other fees” is questionable because they are unfunded mandates. ISBE regulations on school fees may not be enforceable because the General Assembly failed to make necessary appropriations. See the Weekly Message from State Superintendent Robert Schiller, 8-15-03 (contact a **PRESS** Asst. Editor for a copy).

The textbook block grant program operated by ISBE is found at 105 ILCS 5/2-3.155, ~~amended by P.A. 101-227~~.

A school district may charge up to \$50 to students who participate in the driver education course. The fee may be increased up to \$250, provided the district completes the requirements in Section 27-24.2. The fee must be waived for any student whose parent(s)/guardian(s) ~~is/are~~ unable to afford it. 105 ILCS 5/27-24.2; 23 Ill.Admin.Code §252.30.

Resident tuition fees are not permissible, but a board’s authority under 105 ILCS 5/10-20.13 to charge for textbooks and towel fees does not violate the Ill. Constitution’s provision guaranteeing free public education through the secondary level. Hamer v. Board of Ed., Sch. Dist. No. 109, 9 Ill.App.3d 663 (2nd Dist. 1973).

to the Board which additional fees and fines, if any, the District will waive for students who meet the eligibility criteria for a waiver. ³

Notification

The Superintendent shall ensure that a notice of waiver applicability is provided to parents/guardians with every bill for fees and/or fines,⁴ and that applications for waivers are widely available and distributed according to State law and Ill. State Board of Education (ISBE) rule and that provisions for assisting parents/guardians in completing the application are available.

Eligibility Criteria

A student shall be eligible for a fee and fine waiver when: ⁵

1. The student currently lives in a household that meets the same income guidelines, with the same limits based on household size, that are used for the federal free meals program;
2. The student's parents/guardians are veterans or active-duty military personnel with income at or below 200% of the federal poverty line; or
3. The student is homeless, as defined in the McKinney-Vento Homeless Assistance Act (42 U.S.C. § 11434a).

The Superintendent or designee will give additional consideration when one or more of the following factors are present: ⁶

- Illness in the family;
- Unusual expenses such as fire, flood, storm damage, etc.;
- Unemployment;
- Emergency situations;
- When one or more of the parents/guardians are involved in a work stoppage.

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³ 105 ILCS 5/10-20.13(b) was added by P.A. 83-603 in 1983 to require districts to waive "other fees" in addition to the costs of textbooks and then amended by P.A. 102-805, ~~eff. 1-1-23~~, to waive "other fees and fines." The General Assembly, however, never appropriated the necessary funds. Thus, the amendment may be unenforceable because it violated the State Mandates Act. 30 ILCS 805/1; see above footnote. Use the following alternative if the board wants to make a longstanding commitment to waive specific fees, amending the list of fees that will be waived as desired:

In order that no student is denied educational services or academic credit due to the inability of parents/guardians to pay student fees and fines, the following fees are also waived for students who meet the eligibility criteria for waiver: athletic participation fees, lock fees, towel fees, shop fees, laboratory fees, and registration fees.

Alternatively, a board may decide to waive all school student fees and fines and substitute the following sentence for this paragraph:

All school student fees and fines as defined by the Ill. State Board of Education (ISBE) are waived for students who meet the eligibility criteria for a waiver contained in this policy.

⁴ Required by 105 ILCS 5/10-20.13(b), as amended by P.A. 102-805, ~~eff. 1-1-23~~; 23 Ill.Admin.Code §1.245(c)(2)(A).

⁵ Required by 105 ILCS 5/10-20.13(b), amended by P.A.s 102-1032 and 102-805, ~~eff. 1-1-23~~, to add numbers 2 and 3 as eligibility criteria; 23 Ill.Admin.Code §1.245(c)(1). 105 ILCS 5/10-20.13(b), as amended by P.A. 102-1032, does not specify whether the *income* at or below 200% of the federal poverty line is the household income or solely the income of the veteran/active-duty military parent/guardian. Consult the board attorney for guidance.

Though 105 ILCS 5/10-20.13(b) was amended by P.A. 102-805, ~~eff. 1-1-23~~, to make homeless students statutorily eligible for school fee and fine waivers, non-regulatory ISBE guidance states that students who are homeless, migrant, in foster care, runaway, or participating in Head Start are categorically eligible for school fee waivers. See www.isbe.net/Documents/guidance_reg.pdf.

The federal free meals program is found at 42 U.S.C. §1758; 7 C.F.R. Part 245. See f/n 7.

⁶ This paragraph is optional and may be omitted.

Verification ⁷

The Superintendent or designee shall establish a process for determining a student's eligibility for a waiver of fees and fines in accordance with State law requirements.

If a student receiving a waiver is found to be no longer eligible during the school year, the Superintendent or designee shall notify the student's parent/guardian and charge the student a prorated amount based upon the number of school days remaining in the school year.

Determination and Appeal ⁸

Within 30 calendar days after the receipt of a waiver request, the Superintendent or designee shall mail a notice to the parent/guardian whenever a waiver request is denied. The denial notice shall include: (1) the reason for the denial, (2) the process and timelines for making an appeal, and (3) a statement that the parent/guardian may reapply for a waiver any time during the school year if circumstances change. If the denial is appealed, the District shall follow the procedures for the resolution of appeals as provided in the ISBE rule on waiver of fees.

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⁷ Districts have two income verification options to determine eligibility for fee and fine waivers: (1) establish an application process that is completely independent of a student's application for, eligibility for, or participation in the federal free meals program, or (2) tie the application process to the federal free meals program application and only ask for *verification* in accordance with the meals program. 105 ILCS 5/10-20.13(c), amended by P.A.s 102-1032 and 102-805, ~~eff. 1-1-23~~. See www.isbe.net/Pages/School-Fee-Waivers.aspx for further explanation. For option #1, see [sample](#) exhibit 4:140-E1, *Application for Fee Waiver*. For option #2, see [sample](#) exhibit 4:140-E2, *Application for Fee Waiver Based on Federal Free Meals Program*.

By using option #1, a district may require income verification at the time an application is submitted for a waiver and may do so thereafter, but not more than once per academic year. 105 ILCS 5/10-20.13, as amended by P.A. 102-805, ~~eff. 1-1-23~~. An application using option #1 cannot ask whether a student lives in a household that meets free lunch eligibility guidelines and request income verification with reference to *free lunch* eligibility guidelines. Instead, the district should supply its own income guidelines with the same limits based on household size that are used for the federal meals program and have the parents/guardians indicate if they meet the income guidelines used to determine eligibility for *fee and fine waivers*. The independent fee and fine waiver income guidelines should not be any higher than those for eligibility for free lunch (or reduced-price, if the district voluntarily provides fee and fine waivers for those students who qualify), but the district should not reference or indicate that the guidelines are for the free meals program. In this completely independent waiver application process, the district may ask for verification, but cannot use any information it receives through this process for determining eligibility for free or reduced meals.

By using option #2, the district must follow the verification requirements of the federal free meals program at 7 C.F.R. §245.6a. 105 ILCS 5/10-20.13(c), amended by P.A.s 102-1032 and 102-805, ~~eff. 1-1-23~~.

Income verification may include such things as payroll stubs, tax returns, or evidence of receipt of food stamps or Temporary Assistance for Needy Families. 23 Ill.Admin.Code §1.245(d).

⁸ An ISBE rule requires that the policy state that the district will mail a copy of a denial notice within 30 calendar days after the receipt of the waiver request. 23 Ill.Admin.Code §1.245(c)(3). This rule also specifies timelines and procedures, including a requirement that "the person who decides the appeal shall not be the person who initially denied the fee *or fine* waiver or a subordinate of this person." Thus, a board may be required to hear an appeal if the superintendent made the initial decision to deny a waiver. The board's participation is avoided by the principal making initial waiver decisions and the superintendent or other main office administrator deciding the appeals.

LEGAL REF.: 42 U.S.C. §11434a, McKinney-Vento Homeless Assistance Act.
105 ILCS 5/10-20.13, 5/10-22.25, 5/27-24.2, and 5/28-19.2.
23 Ill.Admin.Code §1.245 [may contain unenforceable provisions].

CROSS REF.: 4:130 (Free and Reduced-Price Food Services), 6:140 (Education of Homeless Children), 6:220 (Bring Your Own Technology (BYOT) Program; Responsible Use and Conduct)

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General Personnel

Responsibilities Concerning Internal Information¹

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

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¹ State and federal law controls the content of this policy to the extent that: (1) the unauthorized disclosure of student school records is prohibited by the Family Educational Rights and Privacy Act (20 U.S.C. §1232g) and the Ill. School Student Records Act (105 ILCS 10/); (2) the Freedom of Information Act (FOIA) (5 ILCS 140/) exempts from disclosure certain private or personal information, employee evaluations, school security and response plans, and maps; (3) if a district offers a self-insured group health plan or flexible spending account, it must establish clear procedures to protect the employees' health information (45 C.F.R. §164.502); (4) the Ill. Personnel Record Review Act governs the release of an employee's disciplinary action (820 ILCS 40/); ~~(5) the Student Online Personal Protection Act requires a district and third party operators with whom it contracts to take reasonable measures to protect certain online student data and~~ (56) any person who knowingly destroys, removes, conceals, or alters any public record with the intent to defraud any party commits a Class 4 felony (50 ILCS 205/4). These are examples of the laws requiring the safekeeping of district and school records.

This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. If a local collective bargaining agreement contains a provision on these responsibilities, it will supersede this policy and the board policy should state, "Please refer to the applicable collective bargaining agreement." For employees not covered, the policy should reflect the board's current practice.

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

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

LEGAL REF.: ~~Family Educational and Privacy Rights Act~~, 20 U.S.C. §1232g, Family Educational and Privacy Rights Act.
~~Uses and Disclosures of Protected Health Information; General Rules~~, 45 C.F.R. §164.502-, Uses and Disclosures of Protected Health Information; General Rules.
~~Ill. Freedom of Information Act~~, 5 ILCS 140/, Ill. Freedom of Information Act.
~~Local Records Act~~, 50 ILCS 205/, Local Records Act.
105 ILCS 10/, Ill. School Student Records Act.
105 ILCS 85, Student Online Personal Protection Act.
~~Personnel Record Review Act~~, 820 ILCS 40/, Personnel Record Review Act.

CROSS REF.: 2:140 (Communications To and From the Board), 2:250 (Access to District Public Records), 5:150 (Personnel Records), 7:340 (Student Records), 7:345 (Use of Educational Technologies; Student Data Privacy and Security)

DRAFT

General Personnel

Temporary Illness or Temporary Incapacity ¹

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

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

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

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

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

³ A teacher's contractual continued service status is not affected by an absence caused by temporary illness or temporary incapacity. 105 ILCS 5/24-13. Two cases, decided before the Americans with Disabilities Act (ADA) (42 U.S.C. §12101 et seq.) was enacted, held that this statute grants school boards the power to define, through policy, temporary illness or incapacity. School Dist 151 v. ISBE, 154 Ill.App.3d 375 (1st Dist. 1987); Elder v. School Dist. No.127 1/2, 60 Ill.App.2d 56 (1st Dist. 1965).

Important: Until February 2014, this paragraph in the **PRESS** sample policy applied to all employees. We limited its application to teachers in response to feedback that the paragraph should align with the statute. Section [105 ILCS 5/24-13](#), which this paragraph implements, applies only to teachers and, thus, we amended the paragraph to make it applicable only to teachers. **This change may trigger a bargaining requirement with a bargaining unit for educational support personnel.**

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

The Illinois appellate court decisions cited above upheld a board policy designating when a temporary [illness or] incapacity becomes permanent for the purpose of being a cause of dismissal. The court approved using 90 days of absence due to illness, after the exhaustion of sick days, as the point at which the district considers termination. The court upheld a hearing officer decision noting that a policy providing for a 90-school-day absence following exhaustion of sick leave was sufficient under [Section 105 ILCS 5/24-13](#). The court noted that applying that particular policy over a two-year period would not be appropriate because the two-year period would have the effect of allowing the school board to define a temporary illness or incapacity out of existence; i.e., making it impossible for a teacher to qualify for such an absence. **Important:** a district should consult the board attorney before determining that a teacher's temporary illness or incapacity became permanent.

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

Any employee may be required to have an examination, at the District's expense, by a physician who is licensed in Illinois to practice medicine and surgery in all its branches, a licensed advanced practice registered nurse, or a licensed physician assistant if the examination is job-related and consistent with business necessity. ⁴

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

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

DRAFT

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

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

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

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

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 individual employment contract or collective bargaining agreement in effect. The Superintendent is responsible for making dismissal recommendations to the Board consistent with the Board’s goal of having a highly qualified, high performing staff. ²

School Year

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

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

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

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

² This paragraph is consistent with the IASB’s *Foundational Principles of Effective Governance*, at: www.iasb.com/principles_popup.cfm www.iasb.com/IASB/media/Documents/found_prin.pdf. Boards have three options for using this paragraph: (1) use it as an introduction to the policy; (2) use it alone leaving the specific other topics for administrative implementation; or (3) do not use it.

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

⁴ 105 ILCS 5/24-2(b). See sample 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, amended by P.A.s 102-14, 102-15, 102-334, 102-411, and 103-395, prohibits districts from making a deduction “from the time or compensation of a school employee on account of any legal or special holiday.”

10 ILCS 5/1-24, added by P.A. 103-467 and scheduled to be repealed on 1-1-25, designated 2024 Election Day as a legal school holiday for the purposes of 105 ILCS 5/24-2 and requires any school closed on 2024 Election Day to make itself available to an election authority as a polling place on that date. No waiver exists for 2024 Election Day. 105 ILCS 5/24-2(b) and (e), amended by P.A.s 102-15 and 103-467.

School Day

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

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

Salary

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

Assignments and Transfers¹⁰

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

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

⁵ A school day is required to consist of a minimum of five clock hours under the direct supervision of a teacher or non-teaching personnel or volunteer personnel that provides non-teaching or supervisory duties as specified in 105 ILCS 5/10-22.34(a) in order to qualify as a full day of attendance. 105 ILCS 5/10-19.05(a) and (j-5), amended by P.A. 103-560, ~~eff. 1-1-24~~. See www.isbe.net/school-calendar for Ill. State Board of Education's (ISBE) instructional day changes notice regarding this law. See 105 ILCS 5/10-19.05, amended by P.A. 103-560, ~~eff. 1-1-24~~, for additional exceptions to the attendance calculation.

⁶ 105 ILCS 5/24-9.

⁷ 29 U.S.C. §218(d), added by Pub.L. 117-328; 42 U.S.C. §2000gg *et seq.*, added by Pub.L. 117-328; 740 ILCS 137/; 820 ILCS 260/. Consult the board attorney to ensure the district is properly accommodating nursing mothers. See sample administrative procedure 5:10-AP, *Workplace Accommodations for Nursing Mothers*.

⁸ 105 ILCS 5/10-20.7, 5/10-21.1, 5/24-1, and 5/24-8, amended by P.A. 103-515. The Commission on Government Forecasting and Accountability is required to annually certify and publish the teacher minimum salary to be used for the 2024-2025 school year and each year thereafter. Salaries are a mandatory subject of collective bargaining. 115 ILCS 5/10. Annually, by Oct. 1, each district must: (1) during an open school board meeting, report salary and benefits information for the superintendent, administrators, and teachers; (2) publish that information on the district's website, if any; and (3) provide this information to ISBE. 105 ILCS 5/10-20.47. According to a Public Access Counselor (PAC) *Informal Mediation* letter interpreting 5 ILCS 120/7.3, an IMRF employer must post on its website the names of employees having a total compensation package that exceeds \$75,000 per year. 2012 PAC 19808 (Informal Mediation by the Ill. Attorney General's Public Access Counselor (PAC)); see PAC Annual Report for 2012 at https://foiাপac.ilag.gov/viewpdf.aspx?P=~/content/pdf/Public_Access_Counselor_Annual_Report_2012.pdf.

⁹ 105 ILCS 5/24-21.

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

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

School Social Worker Services Outside of District Employment

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

Dismissal

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

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

105 ILCS 5/22-9~~65(a)~~, added by P.A. 103-46, ~~eff. 1-1-24 and amended by P.A. 103-564~~, requires school districts, when hiring or assigning educators for physical education, music, or visual arts, to prioritize the hiring or assigning of educators who hold an educator license and endorsement in those areas. The law also requires educators in these areas to obtain short-term approval if they are not licensed in the content area, or, if no short-term approval is available, they must meet criteria specified by ISBE. Id. at (b). Educators must obtain an endorsement in the area being taught prior to the end of the short-term approval period to continue to maintain the educator's employment for subsequent school years. professional educator licensure applicants to pass the licensure content area test for the content area the educator is assigned to teach or complete nine semester hours of coursework in the content area prior to the educator's employment start date, among other requirements. Id. at (b). In the alternative, educators do not need to be licensed, obtain short-term approval, or meet other ISBE requirements if they meet the requirements of Title 23 of the Illinois Administrative Code except for Section 1.710. Id. at (d). ~~However, the law does not make clear whether the licensure requirements in 105 ILCS 5/22-95(b), added by P.A. 103-46, eff. 1-1-24, apply only to physical education, music, and visual arts. Consult the board attorney to determine the applicability of these provision~~

¹¹ Optional. This subhead provides information to district employees and the community that 105 ILCS 5/14-1.09a prohibits school social workers from moonlighting by providing services to students attending the districts in which they are employed. Delete “5/10-20.65, 5/14-1.09a,” from the Legal References if the board deletes this subhead.

¹² All dismissal laws in the chart below were amended by the *Education Reform Acts*. 105 ILCS 5/24A-5.5, requires districts to develop and implement a local appeals process for unsatisfactory ratings issued to teachers under 105 ILCS 5/24A-5, amended by P.A.s 102-252, and 102-729. Districts must: (1) develop the process in cooperation with the bargaining unit or teachers, if applicable, and (2) include an assessment of the original rating by a panel of qualified evaluators agreed to by the PERA joint committee (105 ILCS 5/24A-4(b)).

Non-tenure Teacher Discharge	105 ILCS 5/24-11, amended by P.A.s 102-552 and 103-500.
Tenured and Non-tenure Teachers Reduction in Force	105 ILCS 5/24-12(b), amended by P.A.s 103-398, eff. 1-1-24 , and 103-500, and (c)
Tenured Teacher Discharge Where Cause Remediable	105 ILCS 5/24-12(d) (prior reasonable warning required), amended by P.A.s 102-708 and 103-354, eff. 1-1-24 . 105 ILCS 5/24-12(d) (procedural mandates), amended by P.A.s 102-708 and 103-354, eff. 1-1-24 . 105 ILCS 5/10-22.4 (general authority)
Tenured Teacher Discharge Where Cause Irremediable	105 ILCS 5/24-12(d) (no prior warning required) amended by P.A.s 102-708 and 103-354, eff. 1-1-24 . 105 ILCS 5/24-12(d) (procedural mandates), amended by P.A.s 101-531, 101-643, and 102-708 and 103-354, eff. 1-1-24 . 105 ILCS 5/10-22.4 (general authority)
Tenured Teacher Discharge Failure to complete remediation plan with a rating of <i>Proficient or Excellent</i>	105 ILCS 5/24A-5(m) (participation in remediation plan after unsatisfactory evaluation) 105 ILCS 5/24-12(d)(1) 105 ILCS 5/24-12(d) (procedural mandates), amended by P.A.s 102-708 and 103-354, eff. 1-1-24 . 105 ILCS 5/10-22.4 (general authority)

Evaluation

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

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

LEGAL REF.: 29 U.S.C. §218(d), Pub. L. 117-328, Pump for Nursing Mothers Act.
42 U.S.C. §2000gg et seq., Pub. L. 117-328, Pregnant Workers Fairness Act.
105 ILCS 5/10-19, 5/10-19.05, 5/10-20.65, 5/14-1.09a, 5/22-9~~65~~, 5/22.4, 5/24-16.5,
5/24-2, 5/24-8, 5/24-9, 5/24-11, 5/24-12, 5/24-21, 5/24A-1 through 24A-20.
820 ILCS 260/, Nursing Mothers in the Workplace Act.
23 Ill.Admin.Code Parts 50 (Evaluation of Educator Licensed Employees) and 51
(Dismissal of Tenured Teachers).
Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (1985).

CROSS REF.: 5:120 (Employee Ethics; Code of Professional Conduct; and Conflict of Interest),
5:290 (Employment Termination and Suspensions), 6:20 (School Year Calendar
and Day)

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

Tenured Teacher Discharge – Optional Alternative Evaluative Dismissal Process for PERA Evaluation Failure to complete remediation plan with a <i>Proficient</i> or better rating 105 ILCS 5/24A-2.5	105 ILCS 5/24-16.5(d) (provide written notice) 105 ILCS 5/24-16.5 (pre-remediation and remediation procedural mandates) 105 ILCS 5/24-16.5(e) and (f) (school board makes final decision with only PERA-trained board members participating in vote)
Tenured Teacher Discharge – <i>Unsatisfactory</i> PERA evaluation within 36 months of completing a remediation plan 105 ILCS 5/24A-2.5	105 ILCS 5/24A-5(n), amended by P.A. 102-252 (forego remediation and proceed to dismissal) 105 ILCS 5/24-12(d) (procedural mandates), amended by P.A. 102-708. 105 ILCS 5/10-22.4 (general authority)
Educational Support Personnel Employees (non-licensed)	105 ILCS 5/10-23.5, amended by P.A. 102-854.
Probationary Teacher (non-tenure teacher)	105 ILCS 5/24-11, amended by P.A.s 102-552, 102-854, and 103-500.

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

105 ILCS 5/22-9~~65~~, amended by PA 103-46, eff. 1-1-24, provides that in the event of a reduction in force, schools may follow the employee contract language for filling positions.

Teacher RIF procedures were changed by 105 ILCS 5/24-12(b), amended by P.A. 103-398 and 103-500, and (c). See *PERA Overview for School Board Members*, question 15, "What is the process for selecting teachers for a reduction in force/layoff (RIF)" at: www.iasb.com/law/PERAoverview.pdf.

State law does not prohibit a PERA joint committee from agreeing to put a teacher on a remediation plan if the teacher receives a second *needs improvement* (rather than *unsatisfactory*) rating after being on a professional development plan. Bd. of Educ. Rockford Public Sch. v. Rentsch, 212 N.E.3d 565 (Ill. App. Ct. 2nd Dist. 2022).

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

¹³ 105 ILCS 5/24A-5, amended by P.A.s 102-252, 102-729, and 103-85. Teacher evaluation plans are covered in *PERA Overview for School Board Members* at: www.iasb.com/law/PERAoverview.pdf.

Educational Support Personnel

Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers¹

The District shall adhere to State and federal law and regulations requiring a drug and alcohol testing program for school bus and commercial vehicle drivers. The Superintendent or designee manages a program to implement State and federal law defining the circumstances and procedures for the testing.²

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

¹ State and federal law controls this policy’s content. The federal Omnibus Transportation Testing Act of 1991 requires that all persons subject to commercial driver’s license requirements be tested for alcohol, marijuana, cocaine, amphetamines, opiates (including heroin), and phencyclidine (PCP). Cannabis remains a *Schedule I* (c)(17) controlled substance under federal law (21 U.S.C. §812) meaning it has no currently accepted medical use in treatment. Federal drug testing requirements for commercial and school bus drivers, including random testing, are unaffected by the legalization of cannabis for medical and recreational use at the State level. See [sample procedure 5:285-AP, Drug and Alcohol Testing for School Bus and Commercial Vehicle Drivers](#) and U.S. Dept. of Transportation’s *Recreational Marijuana Notice* (12-3-12) (“We want to make it perfectly clear that the state initiatives will have no bearing on the Department of Transportation’s regulated drug testing program. **The Department of Transportation’s Drug and Alcohol Testing Regulation – 49 CFR Part 40 – does not authorize the use of Schedule I drugs, including marijuana, for any reason.**”) (emphasis added) and [Medical-Recreational Marijuana Notice](#) (4-259-129), available at: www.transportation.gov/odapc/program-guidance. State law continues to permit the imposition of civil and criminal penalties for being school bus permit drivers who use cannabis while on duty. 410 ILCS 705/10-35(a)(9).

625 ILCS 5/6-106.1c contains State law requirements for reasonable suspicion drug and alcohol testing of school bus driver permit holders. If an employer has reasonable suspicion to believe that a school bus driver permit holder is under the influence of alcohol, drugs, or intoxicating compounds, the employer must require the permit holder to undergo testing at a licensed testing facility before driving any vehicle for which a school bus driver permit is required. The employer’s reasonable suspicion must be based on specific, contemporaneous observations of the appearance, behavior, speech, or body odors. 49 CFR §382.307. State law makes employers of school bus driver permit holders who do not hold commercial driver’s licenses subject to federal law regarding reasonable suspicion testing. The employer must report to the Ill. Secretary of State if the permit holder refuses testing or if the testing reveals the presence of alcohol, drugs, or intoxicating compounds. A school bus permit holder whose test discloses any amount of alcohol or drugs, or who refuses testing, will have his or her school bus permit suspended for three years.

State law also allows for drug and alcohol testing for any driver on a public roadway; i.e., *implied consent*. 625 ILCS 5/11-501.1.

Drug testing by government entities constitutes a search of an individual, thereby invoking State and federal constitutional law. In determining whether post-employment testing of a school bus driver is permissible, a court will balance the privacy interests of the employee against the district’s interest. [International Brotherhood of Teamsters v. Department of Transportation](#), 932 F.2d 1292 (9th Cir. 1991). For districts that employ staff members in positions requiring a commercial driver’s license, see the U.S. Dept. of Transportation - Office of the Secretary, Office of Drug and Alcohol Policy and Compliance’s guidance and best practices document titled **What Employers Need to Know About DOT Drug and Alcohol Testing**, available at: www.transportation.gov/odapc/employer_handbook.

² An optional provision for districts that contract-out their transportation services:

This policy shall not be implemented, and no administrative procedures will be needed, until it is reasonably foreseeable that the District will hire staff for a position(s) requiring a commercial driver’s license.

LEGAL REF.: [625 ILCS 5/6-106.1 and 5/6-106.1c.](#)

49 U.S.C. §31306, Alcohol and Controlled Substances Testing (Omnibus Transportation Employee Testing Act of 1991, P.L. 102-143).

49 C.F.R. Parts 40 (Procedures for Transportation Workplace Drug and Alcohol Testing Programs), 382 (Controlled Substance and Alcohol Use and Testing), and 395 (Hours of Service of Drivers).

[625 ILCS 5/6-106.1 and 5/6-106.1c.](#)

CROSS REF.: 4:110 (Transportation), 5:30 (Hiring Process and Criteria), 5:280 (Duties and Qualifications)

DRAFT

Educational Support Personnel

Compensatory Time-Off ¹

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

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

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

¹ The federal regulations implementing the Fair Labor Standards Act (FLSA) governs the use of *comp-time*. 29 C.F.R. §§553.21-553.28 and 553.50. See [sample](#) policy 5:35, *Compliance with the Fair Labor Standards Act*, for discussion of the FLSA. In order for a district to offer comp-time, it must have a compensatory time-off policy or the topic must be covered in an applicable collective bargaining agreement. This policy contains an item on which collective bargaining may be required. Any policy that impacts upon wages, hours, and terms and conditions of employment, is subject to collective bargaining upon request by the employee representative, even if the policy involves an inherent managerial right. School officials should consult with the board attorney before adopting this policy.

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

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

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

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

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

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

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

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

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

Implementation

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

LEGAL REF.: ~~Fair Labor Standards Act~~, 29 U.S.C. §201 et seq., [Fair Labor Standards Act](#); 29 C.F.R. Part 553.

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

DRAFT

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

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

⁵ Optional.

Instruction

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

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

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

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

¹ State law controls this policy’s content.

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

³ 105 ILCS 5/13B-1 et seq. Districts are not required to establish an alternative learning opportunities program. However, if they do, State law requires that the program “provide a flexible standards-based learning environment, innovative and varied instructional strategies, a student-centered curriculum, social programs, and supplemental social, health, and support services to improve the educational achievement of students at risk of academic failure.” 105 ILCS 5/13B-20. The program must also meet the requirements in 105 ILCS 5/13B-45. Alternative learning opportunities programs “may include, without limitation, evening high school, in-school tutoring and mentoring programs, in-school suspension programs, high school completion programs to assist high school dropouts in completing their education, high school completion programs to allow students eligible for remote learning under Section 34-18.81 to complete their education while incarcerated in an institution or facility of the Department of Corrections, support services, parental involvement programs, and programs to develop, enhance, or extend the transition for students transferring back into the regular school program, an adult education program, or a post-secondary education program.” 105 ILCS 5/13B-20.5, ~~amended by P.A. 102-966~~. See 105 ILCS 5/13B-25.10, as well as other requirements for general State aid and evidence-based funding (the statute references both types of funding), for additional requirements to receive State funds for creating this program.

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

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

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

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

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

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

DRAFT

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

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

Instruction

Education of Homeless Children ¹

Each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education as provided to other children and youths, including a public pre-school education.² A *homeless child* is defined as provided in the McKinney-Vento Homeless Assistance Act and the Education for Homeless Children Act.³ The Superintendent or designee shall act as or appoint a Liaison for Homeless Children to coordinate this policy's implementation. ⁴

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

¹ State and federal law control this policy's content. This sample policy contains the basic requirements of the Education for Homeless Children Act (105 ILCS 45/), as well as the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11431 *et seq.*). Other policies that are relevant to the education of homeless children are listed in the Cross References, e.g., school admissions and immunizations.

² For high school districts, delete "including a public pre-school education" at the end of the sentence.

³ Under the McKinney-Vento Homeless Assistance Act (42 U.S.C. §11434a(2)), *homeless children and youths* ~~(A)~~ means individuals who lack a fixed, regular, and adequate nighttime residence (within the meaning of ~~section 42 U.S.C. §11302(a)(1)~~; and ~~(B)~~ includes:

- (i) children and youths who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; or are abandoned in hospitals;
- (ii) children and youths who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings (within the meaning of section 11302(a)(2)(C));
- (iii) children and youths who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- (iv) migratory children (as such term is defined in section 6399 of title 20) who qualify as homeless for the purposes of this part because the children are living in circumstances described in clauses (i) through (iii).

Note: Section §11434a(2) no longer includes children "awaiting foster care placement" within the definition of *homeless children and youths*.

Under the Education for Homeless Children Act (105 ILCS 45/1-5), *Homeless person, child, or youth* includes, but is not limited to, any of the following:

- (1) An individual who lacks a fixed, regular, and adequate nighttime place of abode.
- (2) An individual who has a primary nighttime place of abode that is:
 - (A) a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing);
 - (B) an institution that provides a temporary residence for individuals intended to be institutionalized; or
 - (C) a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings.

See www.isbe.net/Pages/Homeless.aspx for helpful informational resources and training with regard to the education of homeless children in Illinois. See <https://nche.ed.gov/legislation/mckinney-vento/www2.ed.gov/programs/homeless/legislation.html> for the U.S. Dept. of Education's information about federal requirements.

⁴ 42 U.S.C. §11432(g)(l)(J)(ii).

A homeless child may attend the District school that the child attended when permanently housed or in which the child was last enrolled. A homeless child living in any District school's attendance area may attend that school. ⁵

The Superintendent or designee shall review and revise rules or procedures that may act as barriers to the enrollment of homeless children and youths. In reviewing and revising such procedures, consideration shall be given to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship.⁶ Transportation shall be provided in accordance with the McKinney-Vento Homeless Assistance Act and State law.⁷ The Superintendent or designee shall give special attention to ensuring the enrollment and attendance of homeless children and youths who are not currently attending school.⁸ If a child is denied enrollment or transportation under this policy, the Liaison for Homeless Children shall immediately refer the child or his or her parent/guardian to the ombudsperson appointed by the Regional Superintendent and provide the child or his or her parent/guardian with a written explanation for the denial.⁹ Whenever a child and his or her parent/guardian who initially share the housing of another person due to loss of housing, economic hardship, or a similar hardship continue to share the housing, the Liaison for Homeless Children shall, after the passage of 18 months and annually thereafter, conduct a review as to whether such hardship continues to exist in accordance with State law. ¹⁰

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⁵ 105 ILCS 45/1-10.

⁶ The first two sentences in this paragraph are required by 42 U.S.C. §11432(g)(7). 410 ILCS 535/25.3, ~~amended by P.A. 100-506~~, requires fees for certified copies of birth records be waived for individuals whose homeless status has been verified. A public school homeless liaison or school social worker may verify homeless status, in accordance with procedures established by the State Registrar of Vital Records. Id.

⁷ 42 U.S.C. §11432(g)(l)(J)(iii), 42 U.S.C. §11432(g)(4)(A), and 105 ILCS 45/1-15. The School Code and Education for Homeless Children Act permit school districts to use their State transportation funds to provide financial assistance to children who are homeless or who qualify as *at risk of becoming homeless* when: (1) the financial assistance is not in excess of the district's actual costs for providing the transportation to the student, and (2) the district is not otherwise claiming the expenditures through another State or federal grant. 105 ILCS 5/29-5 (transportation reimbursement), amended by P.A. 102-539, and 105 ILCS 45/1-17 (homeless assistance). A child is considered *at risk of becoming homeless* if the child's parent/guardian, other person who enrolls the child, or unaccompanied minor provides documented evidence that the child's living situation will no longer be fixed, regular, and adequate within eight weeks, resulting in the child becoming homeless. 105 ILCS 45/1-17(d). Prior to providing such financial assistance, a district must enter into a written housing plan with the parent/guardian, person who enrolled the child, or unaccompanied minor. Id. at 1-17(c). Financial assistance may include: (1) mortgage or rental assistance that will allow a child to remain permanently in his/her living situation or obtain a new living situation; and/or (2) assistance with unpaid bills, loans, or other financial debts that results in housing being inadequate. Id. at 1-17(a). See sample administrative procedure 6:140-AP, *Education of Homeless Children*, f/n 1, for a discussion of issues that districts should consider in developing such plans.

⁸ Required by 42 U.S.C. §11432(g)(7)(C).

⁹ Required by 105 ILCS 45/1-25; 23 Ill.Admin.Code §1.241. The Ill. State Board of Education's *Homeless Dispute Resolution Procedures* (~~published September 2017 and updated December~~February 2024) are available at: www.isbe.net/Pages/Homeless.aspx.

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

¹⁰ Optional. 105 ILCS 45/1-25(a-5). As an alternative, a school board may omit this sentence or use a permissive verb, such as, "...the Liaison for Homeless Children may, after the passage of 18 months and annually thereafter, conduct....change the word "shall" to "may." Any change required as a result of this review becomes effective at the close of the school year. Any person who knowingly or willfully presents false information in any review commits a Class C misdemeanor.

LEGAL REF.: 42 U.S.C. §11431 et seq., McKinney-Vento Homeless Assistance Act.
105 ILCS 45/, Education for Homeless Children Act.
[23 Ill.Admin.Code §1.241.](#)

CROSS REF.: 2:260 (Uniform Grievance Procedure), 4:110 (Transportation), [4:140 \(Waiver of Student Fees\)](#), 7:10 (Equal Educational Opportunities), 7:30 (Student Assignment and Intra-District Transfer), 7:50 (School Admissions and Student Transfers To and From Non-District Schools), 7:60 (Residence), 7:100 (Health, Eye, and Dental Examinations; Immunizations; and Exclusion of Students)

ADMIN. PROC.: 6:140-AP (Education of Homeless Children)

DRAFT

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.² 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.³ Appropriate educational services from qualified staff will begin no later than five school days after receiving a written statement from: (1) a physician licensed to practice medicine in all of its branches, (2) a licensed physician assistant, or (3) a licensed advanced practice registered nurse.⁴ Instructional or

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. 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 (reimbursement for home and hospital instruction); 105 ILCS 5/10-19.05(e), ~~added by P.A. 100-12~~ (an instructional session of one clock hour may be counted as ½ day of attendance, however, a student must receive four 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.

See ISBE guidance, *Home/Hospital Instruction and Reimbursement Questions and Answers* available at: www.isbe.net/Documents/Home-Hospital_QA.pdf.

² 105 ILCS 5/14-13.01, ~~amended by P.A. 100-443~~, defines the standards for determining when a student is eligible to receive home or hospital instruction. A student qualifies when a physician, physician assistant, or advanced practice ~~registered~~ nurse *anticipates* a student's absence due to a medical condition. The law 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 two days at a time multiple times during the school year totaling at least 10 days or more of absences. ~~225 ILCS 65/50-10, 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.~~

³ 105 ILCS 5/14-13.01(a-5), ~~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/Medical-certification-home-hospital-instruction.pdf.

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)).

⁴ 105 ILCS 5/14-13.01(a-5), ~~amended by P.A.s 100-443 and 100-863~~. There is no 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). The statute, ~~amended by P.A. 100-443~~, allows schools to begin home or hospital instruction upon receipt of a written statement from a physician, physician assistant, or advanced practice registered nurse but requires it to begin no later than five school days after receipt of the 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 licensure as required by ~~Section 21B-15 of the School Code (105 ILCS 5/21B-15)~~.

related services for a 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 three months after the child's birth or a miscarriage. ⁵

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 5/10-19.05(e), 5/10-22.6a, 5/14-13.01, and 5/18-4.5.
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)

DRAFT

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

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

Instruction

Library Media Program¹

The Superintendent or designee shall manage the District's library media program to comply with (1) State law and Ill. State Board of Education (ISBE) rule and (2) the following standards:

1. The program includes an organized collection of resources available to students and staff to supplement classroom instruction, foster reading for pleasure, enhance information literacy, and support research, as appropriate to students of all abilities in the grade levels served.

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

¹ ~~State law and ISBE rule controls some aspects of this policy's content; however, districts are not required to adopt a policy on any subject matter covered in it that want to be eligible for the State school library grant funding must adopt Standard #5 or its alternative (see the next paragraph, below); otherwise, no policy is required. 75 ILCS 10/8.7, added by P.A. 103-100. Standards #1-4 restate requirements in 23 Ill.Admin.Code §1.420(o). Standard #2 implements the rule's requirement that each "district's annual budget shall include an identifiable allocation for resources and supplies for the program." However, the rule allows a unit district serving fewer than 400 students or an elementary or high school district serving fewer than 200 students to forego the allocation requirement; thus, they may use the following alternative to standard #2: "Resources are sufficient to meet students' needs."~~

~~Standard #5 or an alternative written statement prohibiting the practice of banning books is required for a district to be eligible for State library grants (e.g., school library grants under 75 ILCS 10/8.4). 75 ILCS 10/8.7, added by P.A. 103-100, eff. 1-1-24. Regarding Standard #5, in order to be eligible for a School Library Grant, a district must also be a member in good standing of a regional multitype library system (e.g., Illinois Heartland Library System or Reaching Across Illinois Library System) or have applied for membership and been approved for membership in such a system within specific timeframes. 23 Ill.Admin.Code §3035.120. The American Library Association's (ALA) *Library Bill of Rights* (available at <https://www.ala.org/advocacy/intfreedom/librarybill>) includes the following:~~

1. Books and other library resources should be provided for the interest, information, and enlightenment of all people of the community the library serves. Materials should not be excluded because of the origin, background, or views of those contributing to their creation.
2. Libraries should provide materials and information presenting all points of view on current and historical issues. Materials should not be proscribed or removed because of partisan or doctrinal disapproval.
3. Libraries should challenge censorship in the fulfillment of their responsibility to provide information and enlightenment.
4. Libraries should cooperate with all persons and groups concerned with resisting abridgment of free expression and free access to ideas.
5. A person's right to use a library should not be denied or abridged because of origin, age, background, or views.
6. Libraries which make exhibit spaces and meeting rooms available to the public they serve should make such facilities available on an equitable basis, regardless of the beliefs or affiliations of individuals or groups requesting their use.
7. All people, regardless of origin, age, background, or views, possess a right to privacy and confidentiality in their library use.
8. Libraries should advocate for, educate about, and protect people's privacy, safeguarding all library use data, including personally identifiable information.

If the board prefers the alternative language permitted by 75 ILCS 10/8.7, added by P.A. 103-100, ~~eff. 1-1-24~~, for Standard #5, substitute with the following:

The practice of banning books or other materials within the District's library media program is prohibited.

~~If a board adopts the alternative language for Standard #5, the district must also implement administrative procedure 6:230-AP, Responding to Complaints About Library Media Resources, using the alternative language in its f/n 1. A district that utilizes the alternative language and is applying for a State School Library Grant should submit policy 6:230, Library Media Program, and administrative procedure 6:230-AP, Responding to Complaints About Library Media Resources to the Ill. State Library as part of the eligibility certification for the grant.~~

Standards #6 and #7 may be customized or deleted, and other standards may be added.

2. Financial resources for the program's resources and supplies are allocated to meet students' needs.
3. Students in all grades served have equitable access to library media resources.
4. The advice of an individual who is qualified according to ISBE rule is sought regarding the overall direction of the program, including the selection and organization of materials, provision of instruction in information and technology literacy, and structuring the work of library paraprofessionals.
5. The program adheres to the principles of the American Library Association's *Library Bill of Rights*, which indicate that materials should not be proscribed or removed because of partisan or doctrinal disapproval.
6. Staff members are invited to recommend additions to the collection.
7. Students may freely select resource center materials as well as receive guided selection of materials appropriate to specific, planned learning experiences.

Parents/guardians, employees, and community members who believe that library media program resources violate rights guaranteed by any law or Board policy may file a complaint using Board policy 2:260, *Uniform Grievance Procedure*.²

The Superintendent or designee shall establish criteria consistent with this policy for the review of objections. Parents/guardians, employees, and community members with suggestions or complaints about library media program resources may complete a *Library Media Resource Objection Form*. The Superintendent or designee shall inform the parent/guardian, employee, or community member, as applicable, of the District's decision.³

LEGAL REF.: 75 ILCS 10/8.7.
23 Ill.Admin.Code §1.420(o).

CROSS REF.: 2:260 (Uniform Grievance Procedure), 6:60 (Curriculum Content), 6:170 (Title I Programs), 6:210 (Instructional Materials), 6:260 (Complaints About Curriculum, Instructional Materials, and Programs)

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² Limiting the scope of complainants in this policy to parents/guardians, employees, and community members aligns with sample policy 2:260, *Uniform Grievance Procedure*.

³ The issue of school library book removals is an unsettled area of law that is often litigated; consult the board attorney for advice regarding challenges to school library books or other library resources. In the only U.S. Supreme Court case to address this issue, *Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853 (1982), the Court issued a plurality (not a majority) opinion finding a board could not remove books it had characterized as "anti-American, anti-Christian, anti-Semitic, and just plain filthy," if the removal was motivated by partisan or political reasons; to do so would violate students' Constitutional right to receive information and ideas. Four dissenting justices, however, disagreed that students have a right to receive information and ideas under the First Amendment and would have deferred to the judgment of the local school board.

Students

Vandalism¹

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

LEGAL REF.: 740 ILCS 115/. [Parental Responsibility Law](#).

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

DRAFT

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

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